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TO THE MEMORY OF
WHITMELL PUGH MARTIN

PREFACE

This book is an attempt to give the reader a general idea of the Law Library of Congress at the Capitol, popularly known as the Supreme Court Library, its books and some of their uses. It is in the form of lectures; in fact a good deal of what it at present contains formed a part of a series of lectures delivered at the law school of Georgetown University last winter.

It is believed that this work may be of some service not only to the student of law, but also to the general practitioner. For the lawyer whose books are comparatively few it may furnish a suggestion for the building up of a larger collection, or, while his library grows, he may consult it when he seeks direction to sources of information in his bar or public library. Even that lawyer who has a large library may find some useful hints in glancing through the index of this book. It has been learned from years of experience that often information is at hand, but, unseen and unremembered, is found too late or only after an unnecessarily long search. Information looked for in vain may be tucked away in a book at one's very elbow; and no book should be scorned that will give a helpful nudge at such a time.

No attempt has been made to deal exhaustively with my subject. The issue of law books is so rapid that changes are constantly occurring in the rating

of their values. What is good to-day may be bettered to-morrow; therefore any descriptive work of law books should always be used with the most recent issues of the law-booksellers's catalogs. Of course, there are some books so firmly based that they withstand the shocks of Time; but even these may be found to have been made more helpful by later editings.

As a book about law books alone is dry reading, it occurred to me that the Law Library afforded materials for a work which would not be devoid of interest and instruction, if, without going into minute and tedious detail, I mentioned now and then some of the men and matters connected in one way or another with this library and its books.

I wish to express my indebtedness to Mr. W. H. McClenon, of the Legislative Reference Service of the Library of Congress, and Mr. O. D. Clarke, Librarian of the private library of the Supreme Court, for valuable suggestions.

The Capitol,
Washington, D. C.

Roland Williamson.

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CHAPTER I

The Constitution—Federal Laws

It has been truly said that "laws * * * have so close a connection with history * * * that they must partake a little of what they are related to so nearly"; so in speaking of the books in the Law Library of Congress at the Capitol, popularly known as the Supreme Court Library, we shall say something of the men and matters associated with them in one way or another.

If you have not already done so, we would suggest that on your next visit to the Capitol you go to what is known as the Law Library entrance. Approaching the building from the East you will see it to the right of the main steps, on the ground floor.

There could hardly be found a spot in the United States about which has happened so much having to do with the history of our Federal government.

To the right of the door is a bronze tablet, placed there September 18, 1893, to commemorate the hundredth anniversary of the laying of the corner-stone of the Capitol. The corner-stone was laid in the presence of George Washington, then President of the United States, and is beneath this tablet.

We cannot be sure that John Marshall was with Washington on that day, but we know that he later had occasion to pass that way many times in going to and from the court over which he presided for so many years.

Marshall was born in Fauquier County, Virginia, September 24, 1755. His early life was that of a country boy of that period; helping his father on the farm; hunting in the forests; fishing in the streams and dreaming dreams that could never come true. He dreamed, perhaps, that he would some day become a British statesman or military officer or judge, for he was at that time a British subject. One of his father's friends and neighbors was Lord Fairfax, who had what was considered at that time a good library. He was kind enough to lend some of his books to Marshall's father, little dreaming that out of them would sprout an idea that would one day cover this whole country with its protecting branches of the law. Young Marshall read many of these books and what he got out of them was worth knowing.

However, his reading did not unfit him for other work that came to hand. At the outbreak of the Revolution he drew his sword and went to war. While in the army he continued as best he might his preparation for the bar; got good training at speech-making by talking to the groups of soldiers as they sat through the long evenings about the camp fires. Marshall served as lieutenant and captain, and in 1780, when without a command, he attended law lectures at the College of William and Mary. Had he been there several years earlier he would have found Thomas Jefferson among the students.

Just inside the Law Library entrance are six col-

umns made of Virginia sand stone and designed by Thomas Jefferson. They represent stalks of corn bound together, the capitals being formed by the half open ears. These columns are much admired by the visitors to the Capitol.

The name Jefferson naturally suggests the Declaration of Independence. Should the visitor wish to see a copy of that document, he may pass through a door to the right of these corn-stalk columns and enter the Law Library. Around three sides of this room are arranged high book-cases in a way that form thirteen alcoves. Beginning at the door these alcoves follow the states alphabetically and the books under each state are shelved in the following order: first, the constitutions, then the session laws, then the revised or compiled laws, next the reports, then Shepard's citations, then the digests, and lastly the treatises.

He would find a copy of the Declaration of Independence in the front part of many of the revised or compiled laws of the states. There he would also find copies of the Constitution of the United States. For this reason, he could lay his hand on a copy of the Constitution in almost any part of the Law Library.

Among the annotated Constitutions of the United States are those of Desty (1879), Paschal (1882), Baker (1891), and Bryant (1901).

A resolution adopted by the United States Senate in 1921 provided for the printing of the Constitution, including all amendments thereto and with

citations of the cases in the United States Supreme Court. In addition to the Constitution, copiously annotated, this Senate Document contains a literal print of the Constitution, a list of the leading cases on the Constitution, and a list of most of the acts of Congress declared unconstitutional by the Supreme Court of the United States.

In 1924 the American Law Book Company published the Constitution annotated with references to the Corpus Juris-CYC System. This book contains also the text of the Declaration of Independence, the Articles of Confederation and the Ordinance of 1787 for the government of the territory of the United States northwest of the Ohio River.

A very thorough annotation of the Constitution is found in the United States Compiled Statutes Annotated (West Publishing Company, 1916), the Federal Statutes Annotated (Edward Thompson Company, 1916), and the United States Code Annotated (Edward Thompson Company and the West Publishing Company, 1928). Mason's Code (Citer-Digest Company, 1926) contains full annotations of the Constitution.

Mention was made of a list of acts of Congress declared unconstitutional by the United States Supreme Court in the annotated Constitution published as a Senate document. This list begins with the celebrated case of *Marbury v. Madison.* You may remember that it was in this case that Chief Justice Marshall held that a certain section in the Judiciary Act (September 24, 1789, chap. 20, last sub. sec. 13;

1 Stats. 81) was unconstitutional for the reason that it attempted to enlarge the original jurisdiction of the Supreme Court as prescribed by Article III, sec. 2, of the Constitution.

While this case has been considered the highest authority, Thomas Jefferson was opposed to it as shown by this quotation from a letter he wrote to George Hay during the Burr trial, in 1807: "I observe that the case of *Marbury v. Madison* has been cited in the Burr case, and I think it material to stop at the threshold the citing that case as authority, and to have it denied to be law. * * * I have long wished for a proper occasion to have the gratuitous opinion in *Marbury v. Madison* brought before the public and denounced as not law; and I think the present a fortunate one because the case occupies such a place in the public attention. I shall be glad, therefore, if in noticing that case, you could take occasion to express the determination of the Executive that the doctrines of that case were given extrajudicially and against the law, and that the reverse will be the rule of action with the Executive."

In the American Bar Association Journal for June, 1927 (p. 335), there is an interesting article by Henry H. Wilson containing the various views of well known judges and lawyers on the question of obiter dictum in the Marbury v. Madison case.

In connection with this case there is an erroneous opinion held by some that it was decided in the room now occupied by the Law Library. At that time the Court was sitting upstairs in the room now used as

an office by the Marshal. The Court did not move into the lower room until 1809.

With regard to this list of acts held unconstitutional, you will find that one of the most important cases—the Dred Scott case—was omitted.

There have been, of course, thousands of books written about the Constitution. There has been much theorizing about it, but it has to be construed in a practical way. Fortunately it was written by practical men. Chief Justice Marshall said, in the case of *Gibbons v. Ogden,* 9 Wheat., page 188, "As men, whose intentions require no concealment, generally employ the words which most directly and aptly express the ideas they intend to convey, the enlightened patriots who framed our Constitution, and the people who adopted it, must be understood to have employed words in their natural sense, and to have intended what they have said."

What individual writers and speakers think of the Constitution may be found helpful, but if one wishes to become a constitutional lawyer, if one wishes to know its real meaning, he must go back to the days of its making and live in the atmosphere that surrounded its framers. Though separated by a space of 139 years from the Constitution, our courts and lawyers yet hear and heed the commanding voices of those far off times. As an illustration of this, take the celebrated case of *Myers v. United States,* decided at the 1926 term of the United States Supreme Court; and we find the Chief Justice citing the debates in the Constitutional Convention, and quoting

from a letter written by Chancellor Kent to Daniel Webster, wherein the Chancellor says that he had heard the question debated in the summer of 1789.

The framers of the Constitution toiled over it during the hot summer of 1787 in Philadelphia, and this heat did not abate when their product was published that fall. Then was the open season for that strange creature called the Constitution, and wherever men could talk or write, at meeting-houses, cross-roads, country stores or city stores and halls, they were taking pot shots at it. It has been said that there never was a time when the principles of government were so much discussed. Hamilton, Jay and Madison knew that the battle for the Constitution was not half over. It had to be ratified, and they set to work writing those letters known as the Federalist. You will find them in a volume by that title and edited by Paul Leicester Ford. If you read these 86 letters, you will admire the ability shown by Alexander Hamilton in winning his fight against great odds in the State of New York. When a young lawyer has a hard case, he should remember that Alexander Hamilton, a little over thirty years old, went into that New York Convention with its members standing 19 for and 65 against ratification, and won his fight for the Constitution.

The sessions of the Constitutional Convention in Philadelphia were secret. Before its adjournment the secretary was directed to "deposit the journal and all papers of the convention in the hands of the President," and he, George Washington, was di-

rected to "retain the journal and other papers subject to the order of Congress, if ever formed under the Constitution." Washington deposited these papers with the Department of State in 1796, and they remained there until they were ordered to be printed. This order was given by Congress in a joint resolution approved March 27, 1818. (Stats. at Large, vol. 3, page 475.)

Among the good books dealing with the Constitution is a three-volume set by Max Farrand, Professor of History, Yale University, entitled "The Records of the Federal Constitution of 1787." Elliot's "Debates on the Federal Constitution" has been a favorite for nearly a century. From these one learns how the question of the adoption of the Constitution was threshed out in the state conventions. One of the latest books on the subject is "The Making of the Constitution," by Mr. Charles Warren, whose earlier work, called "The Supreme Court in United States History" was awarded the Pulitzer prize for the best book on American history published during the year 1922. Another book of Mr. Warren's is "Congress, the Constitution and the Supreme Court." In its preface is an abstract from a speech broadcast by Mr. John W. Davis in 1925, reading as follows:

> "The Constitution has but two enemies, whether foreign or domestic, who are in the least to be feared. The first of these is ignorance—ignorance of its contents, ignorance of its meaning, ignorance of the great truths on which it is founded and of the great things that

have been done in its name. And the second is indifference—the sort of indifference which leads many people, otherwise well enough behaved, to ignore the rights and duties of citizenship."

Perhaps the reader has been in Statuary Hall in the Capitol. It was for many years the House of Representatives, but earlier sessions were held in the rooms now used by the Clerk of the United States Supreme Court. The Senate sat in the present Supreme Court Chamber and moved to their new quarters in 1859. Many distinguished men had attended sessions of the senate in that old chamber, but none better known than the group assembled there in the middle of the last century. At that time Lincoln was a member of the House of Representatives from the State of Illinois. The House members often looked in on the Senate, and it is probable that Lincoln did. It would have been terrible for him had not a kindly veil shut out the events of the coming years.

Standing in the doorway Lincoln might have almost touched the senator occupying a seat to his right. This senator was below middle height and was called "the little giant"—Stephen A. Douglas—and a few years later he was to meet Lincoln in those famous debates and make of him a great national figure. On the same row, a few seats to the right of Mr. Douglas, was an old man from the state where Lincoln was born. This was Henry Clay, who was admitted to the bar in Virginia when twenty years

old and moved out to Kentucky the same year. About the time of this supposed visit of Mr. Lincoln to the senate chamber, Clay was introducing his resolutions as a basis for compromise of the slavery question. At Mr. Clay's right sat the senator from New York, William Henry Seward, then about fifty. Later he was a candidate for the Republican nomination for President against Mr. Lincoln and still later he became Secretary of State in Mr. Lincoln's cabinet. Directly in front of Stephen A. Douglas sat Daniel Webster, and it must have hurt this old gentleman's feelings to hear Senator Seward declare in the debate on the compromise measure that "there is a higher law than the Constitution." In the same row of seats with Mr. Webster, but to the left of the aisle, was the venerable John C. Calhoun, who, as the reader may remember, had said a few things about the Constitution himself. Seated next to Calhoun was the most tragic figure in the chamber—Jefferson Davis, senator from Mississippi. One bond existed between him and Lincoln; they were both born in Kentucky. At the outset of Mr. Davis' career he had been graduated from West Point, and had married the daughter of Zachary Taylor. She was never to see her father in the White House, for she died several months after her marriage, and, at the time we are considering, Zachary Taylor was President of the United States. Davis, after serving gallantly in the war with Mexico, then as senator, was soon to be Secretary of War for the United States and then President of the Confederate States of America.

The Congress we have been looking in on was the thirty-first. Since the adoption of the Constitution there have been seventy congresses. The laws passed by them are bound in forty-four volumes, called the Statutes at Large. A few volumes of the Statutes at Large differ markedly from the others in certain respects. Volume 6 contains the private acts from the organization of the government to March 3, 1845. In it will be found acts for the relief of individuals for damages done by the United States Government, or acts for the benefit of individuals or corporations, such, for instance, in the case of individuals, acts authorizing the discharge of a debtor of the United States Government from his confinement.

Volume 7 of the Statutes at Large contains the treaties between the United States and the Indian Tribes from 1778 to 1842. With regard to Indian Treaties, it should be remembered that in 1903, by authority of a Senate Resolution, a compilation of the treaties, laws, executive orders and other matters relating to Indian affairs was published. These are in three volumes following the general make-up of the Statutes at Large. They are edited by Mr. Charles J. Kappler, and are fully annotated together with foot-notes, index and cross references.

The court records show that the Indians were poor traders. Little by little they have lost to men willing to take advantage of a weaker brother. But where men have been cruel, God has been good, and some of the small areas left to the Indians have turned

out to be veritable treasure chests. The gross oil productions on Indian lands for the year 1926 was 42,000,000 barrels. The best friend the Indian has today is the Federal government, and the Secretary of the Interior is his big brother who protects him against crooks. Justice Sutherland, in a recent Indian case, said that this power of the government over the Indians rests upon "their recognized inability to safely conduct business affairs, and the peculiar duty of the Federal government to safeguard their interests and protect them against the greed of others and their own improvidence."

Volume 8 of the Statutes at Large contains the treaties between the United States and foreign nations from the Declaration of Independence to the year 1845. Anyone interested in the French or Spanish languages will find this volume very helpful, for it contains the treaties in the English and Spanish or French languages. In this connection you might keep in mind, too, that in the Statutes at Large, part 2, since 1901, you will often find interesting treaties printed in foreign languages with the English translations in parallel columns.

One volume of the Statutes at Large bears no number. It is really part 2 of volume 18 and is entitled "Revised Statutes of the United States relating to the District of Columbia, passed at the first session of the forty-third Congress (1873-74), together with the public treaties in force on the first day of December, 1873."

The Code of the District of Columbia is published

in a separate volume; but as enacted, it is found in volume 31 of the Statutes at Large, page 1189. This act was approved March 3, 1901. If a reader should visit the Law Library and find the Code of the District off the shelf, he might remember that it is in this volume 31 of the Statutes at Large, and obtain his information there. There have been amendments to the act, but by using Shepard's Citations the reader could see in the subsequent volumes just what these amendments were; he could also find citations to opinions of the court dealing with the different sections of the code. Shepard's Citations will be mentioned later.

There are several old books of the laws of the District of Columbia in the Law Library. In 1817 the Board of Aldermen and the Board of Common Council of the City of Washington authorized the preparation of a digest of the general laws of the corporation. In it you will find some strange laws.

In those early days there were, of course, no automobiles, but reckless drivers must have been giving trouble, for in this digest we find a law providing that "no person shall drive any wagon, cart or other carriage whatever, on any of the paved or gravelled foot-ways now made, or which may hereafter be made, in and on any of the public avenues or streets within the City of Washington, or ride thereon, except at the intersection of streets and avenues, under the penalty of two dollars."

Two dollars was not much of a fine, but the punishment for other violations of the District's laws at

that time were more severe, whether they were inflicted or not. For instance, in the case of the *United States v. Jennegen,* tried in the District of Columbia in 1830, and reported in 4th Cranch Cir. Ct. Reports, p. 118, the court held that the statute of bigamy, of James I of England, was expressly enacted and declared to be in full force to all intents and purposes in Maryland, by the Act of 1706; and by the Bill of Rights of that State, and the Act of Congress of 27th of February, 1801, which continued in force the laws of Maryland in the District of Columbia. Now among other things the person convicted of bigamy could expect was to be marked so as to be easily identified. You remember in "The Scarlet Letter" the unfortunate Hester was obliged always to wear on the front of her gown the red letter "A" to identify her as an adulteress. The Washington lawmakers might have thought the bigamist would not be so conscientious as Hester in wearing the badge of shame, for, at any rate, they took no chances and required that the mark be branded in the hand. In the case referred to, Jennegen escaped the branding, for the report ends in these words: "In this state of the case, the prisoner, having been in gaol nearly or quite a year, withdrew his motion for a new trial, and the Court, in consideration of his long imprisonment, sentenced him to seven days' further imprisonment, and dispensed with the burning in the hand."

Other remarkable laws are called to our attention by this old Washington City Digest; for instance:

under the heading "lotteries" reference is made to resolutions passed in the year 1814 to 1817 for the holding of lotteries to raise money for the building of two schoolhouses, a penitentiary, and a town house or city hall. Certain citizens were appointed to look after the holding of the lottery; they were to "sell and dispose of tickets therein, to the best advantage, with the least possible delay, and diligently attend to the drawing of the said lottery or lotteries, which shall be in the City of Washington; and within sixty days after the drawing of the said lottery or lotteries respectively, shall be finished, which shall not exceed two years from the commencement of the drawing, to pay and satisfy the fortunate adventurers for prizes drawn by them." This should be of interest to the readers in the Law Library, for the reason that a lottery played an important part in the dramatic career of one of our great Chief Justices. The late Chief Justice White was one of the leaders in the movement to rid his State (Louisiana) of the lottery. His efforts in a successful fight brought about his election to the United States Senate. There his unusual talents were recognized by President Cleveland, who appointed him an Associate Justice of the United States Supreme Court.

Your attention will be called a little later to the part played by the Washington lotteries in the interpretation of the Judiciary Act.

In these days much is heard about the three distinct departments of our Federal government—the Legislative, the Executive and the Judicial—and of

their nonencroachment, one upon the other; yet the Statutes at Large are published not by the Legislative Department, as might be supposed, but by the Executive.

When a bill has been passed by both Houses, it is copied, and this enrolled copy is signed by the Speaker of the House of Representatives and the President of the Senate. It is then sent to the President of the United States. If he signs it, or permits it to become a law without his signature, the President then sends the enrolled copy to the Secretary of State. If the enrolled copy is unsigned and returned to Congress by the President and vetoed by him, the Congress may pass it over his veto. If this is done the enrolled copy is sent to the Secretary of State by the President of the Senate or the Speaker of the House, depending on whether the bill was last approved in the Senate or the House.

The mechanical part of lawmaking requires careful attention. The misplacement of a punctuation mark might throw a law into court. Upon a badly prepared line might hang a man's life or fortune.

In volume 12 of the Statutes at Large, page 330, is an act relative to the duty on teas, coffee and sugar. Like all the other acts in the Statutes at Large there is at the bottom of it the word "approved" followed by the date. In this act referred to, after the date, "December 24th," the year—1861—is in brackets. To a layman this would not mean anything in particular, but to a keen-eyed lawyer it was different. An unexperienced man will go

through a diamond mine and overlook a pebble containing a valuable gem. Perhaps a certain lawyer thought he had discovered a rare jewel in this bracketed date. In volume 6 of Wallace's reports, page 499, it will be observed that this lawyer had at least found a point on which to hang an interesting question of law. This is the case of *Gardner v. The Collector,* testing the validity of the act just referred to, whose object was to raise the duty of 15c per pound on teas to 20c. In approving this act, President Lincoln signed his name and added "December 24th" but did not write the year. The plaintiff in error, Mr. Gardner, had in 1864 entered certain packages of teas, and had declined to pay 20c per pound but offered to pay the Collector 15c per pound. Being compelled to pay the 20c duty, Gardner brought suit to recover the excess. His lawyer claimed that the act was invalid because President Lincoln had failed to affix the full date. The Court held that neither the Constitution nor the statutes require the President to date a bill on signing it. One might be curious to know why the President did not finish the date. It will be observed that it was Christmas Eve, and one might safely imagine that things were a bit upset at the White House.

In the preparation of bills to be introduced in Congress, great assistance is now given by the Legislative Counsel of the Senate and House. By section 1303 of the Revenue Act of 1918, Congress created a Legislative Drafting Service under the

direction of two draftsmen. Its duties were to aid in drafting public bills and resolutions or amendments thereto on the request of any committee of the House or Senate. By Section 1101 of the Revenue Act of 1924, the title of Legislative Drafting Service was changed to Legislative Counsel. There are about five lawyers in the office of the Legislative Counsel of the Senate and the same number for the House. These lawyers are experts on legislative matters and their advice to the committees saves much time and money. The chief draftsmen are also known as Legislative Counsel. They have the same privilege of free transmission of official mail as other officers of the United States Government.

A story is told of a careless law drafter in England, who evidently wished to get rid of his boss and the people who turn up law-breakers. A law provided that the punishment for a certain offense should be a fine, half of which was to go to the King and half to the informer. Parliament decided to change this punishment to fourteen years' transportation. The law drafter in preparing the amending bill failed to change the text, so it read that the punishment should be "fourteen years' transportation, and upon conviction, one-half thereof should go to the King and one-half to the informer."

With the valuable assistance of the Legislative Counsel, Congress is less likely to pass unconstitutional law. When one takes into consideration the immense amount of legislation that has been enacted by Congress, it is surprising that there have been so few laws held unconstitutional.

Mr. Charles Warren, in his book, "Congress, the Constitution and the Supreme Court" (page 134) says: "In 135 years (from 1789 to 1924) there have been exactly 53 decided cases in which an Act of Congress has been held unconstitutional (and one case in which a Joint Resolution of Congress has been held unconstitutional)." He points out that of these there were only eleven that received serious criticism, and that of these eleven there remain only five as to which anyone feels any deep grievance now. The five are (1) *Adair v. United States,* 208 U. S. 161, having to do with the right of an employer to discharge an employee on account of membership with a labor union; (2) *Eisner v. Macomber,* 252 U. S. 189, the well-known stock dividend case; (3) *Hammer v. Dagenhart,* 247 U. S. 251, child labor on interstate shipments; (4) *Bailey v. Drexel Furniture Company,* 259 U. S. 20, on the Child Labor Tax Act; and (5) *Adkins v. Children's Hospital,* 261 U. S. 525, on the District of Columbia minimum wage law.

The volumes of the Statutes at Large contain also the Proclamations of the Presidents. Some of the Supreme Court cases growing out of proclamations are interesting. For instance, take the case of *Lapeyre v. United States,* 17 Wallace 191. By the Act of July 13, 1861, the President was authorized to proclaim, "That the inhabitants of a state, or any part thereof, where * * * insurrection exists, are in a state of insurrection against the United States;" and thereupon, "all commercial intercourse," between such inhabitants and the citizens of the rest

of the United States, "shall cease and be unlawful, *so long as such condition of hostility shall continue.*" This meant that the cotton planter could not sell his crop while the war lasted. On July 2, 1864, an act was passed by Congress which provided, among other things, that a person living west of the Mississippi River might transport cotton through the lines of the armies of the United States to the City of New Orleans, and deliver it there to an agent of the United States. This agent was authorized to buy it and give the seller three-fourths of the market value thereof, this value to be fixed by the current New York market. In other words the cotton owner was given the right to bring and sell his cotton from the enemy country subject to a tax of 25% of the value of it. General Lee surrendered on the 6th of April, 1865; General Johnston on the 26th of the same month, and General Kirby-Smith, who commanded west of the Mississippi River, surrendered a month later. This practically ended the war. On the 10th of May, 1865, the President proclaimed that "armed resistance to the authority of this government may be regarded as virtually at an end." With these proclamations before us, we come to the interesting part of the matter. On the 18th of June, 1865, a Mr. Lapeyre had several hundred bales of cotton shipped to New Orleans from some point west of the Mississippi River. This cotton was sold to the agent of the United States on the 26th of June, and Lapeyre received three-fourths of its value. President Johnson issued a proclamation dated June 24, 1865,

which removed the restrictions upon trade west of the Mississippi River but his proclamation was not published in the newspapers until the morning of the 27th. At the time Mr. Lapeyre sold the cotton neither he nor the agent knew of that last proclamation. When it reached the ears of Mr. Lapeyre he asked that this tax be refunded, but the government refused to do this. Then the matter was taken into the Court of Claims, and when that court rejected Mr. Lapeyre's claim, he took it to the United States Supreme Court. The question the court had to decide was, when did this last proclamation take effect? Did it take effect the day it was signed by the President or the day it was published? If it took effect the day it was signed, Mr. Lapeyre would recover; if on the date it was published, the government would keep the money. This case was hotly contested and the court divided five to four. Lapeyre won, for the five judges held that the proclamation had a valid existence on the day of its date.

Hidden away in these ponderous volumes of the Statutes at Large are the foundations upon which lawyers of several generations have built interesting law suits, it remaining for the Supreme Court to test the solidity of these foundations.

So far we have been considering the Statutes at Large, containing the thousands of laws as they were passed by Congress. Let us now take up the matter of finding these laws in the easiest way. In the study of law one soon learns the value of a good index. In any sort of legal battle a lawyer is likely

to be confronted with a suprising question, and he needs to know where he can quickly lay his hands on a good weapon to defend or advance his cause. This is true also in the debates on the floor of the House or Senate. In the olden days, when time was plentiful and the volumes of the Statutes at Large few, a lawyer or debater could get along fairly well; but as hundreds of new laws were being enacted or amended each year and less time was had for research, there was an increasing demand for some means whereby a law might be quickly turned to; and Congress was forced to seek the aid of expert indexers. For a practical guide to the general and permanent laws contained in some forty thousand pages of the Statutes at Large from the year 1789 to 1907, there are the two volumes of the Scott and Beaman Index. Included in the work are tables of repeals and amendments and one of popular names given to the statutes. The last Congress arranged to have this index brought nearer to date but did not appropriate any funds for the purpose.

Another helpful companion to the Statutes at Large is the Citer Digest, showing as it does the history and construction of the United States Constitution, treaties, proclamations, resolutions and statutes. The rules of the Federal courts are also treated. This work is in two volumes, and is continued by the supplements to Mason's Code Annotated. In the Citer Digest the Acts of Congress are arranged in chronological order. Let us say that a lawyer has a client who while working as a brake-

man has his hand injured in attempting to couple some cars. He says the accident was due to a defective coupler. By turning to the index of the Citer Digest under the title "Safety Appliance Act" the lawyer is referred to page 629, where he finds the act was passed March 2, 1893, 27 Statutes at Large, page 531, chapter 196. Beneath this information are numerous notes relative to the act. One of them has to do with a case growing out of a defective coupler. It is a United States Supreme Court case, and in a few minutes the lawyer has enough authorities to support a claim for damages.

While the damage suit lawyer is often severely criticised, and at times deserves the title of "ambulance chaser" applied to him, an honest lawyer can be of great service to his fellow-men by devoting his talents to damage suits and can earn some good fees in the bargain. It does not necessarily follow that one specializing in damage suits be dishonest. Lincoln once told a law student, who thought he could not be honest as a lawyer: "Let no young man choosing the law for a calling yield to that popular belief that honesty is not compatible with its practice. If in your judgment you cannot be an honest lawyer, resolve to be honest without being a lawyer."

But let us return to our subject. We were considering the means of getting at the numerous laws scattered through the volumes of the Statutes at Large. The Revised Statutes of the United States were enacted June 22, 1874, and embraced the laws gen-

eral and permanent in their nature in force December 1, 1873. Seventeen volumes of the Statutes at Large had been published up to the time of this revision, and their contents of live laws were thus condensed into one volume. A second edition of this work was published in 1878 and is the Revised Statutes generally referred to. In 1926 one hundred and thirty-seven years' accumulation of laws was compressed into one large volume under the auspices of the Committee on the Revision of the Laws and given the title "Code of the Laws of the United States." "It is presumed," said Mr. Fitzgerald, Chairman of the Committee, "to contain correctly stated, the general and permanent laws of the United States in force December 7, 1925, * * * and may become absolute by the repeal of prior legislation * * * . Now, while it remains but prima facie evidence of the law, is the time to search out errors and correct them." This Code has not yet been enacted as absolute law, so where there is any doubt, one must go to the original law.

The first annotated Code of Laws of the United States to reach the Law Library was Mason's Code, published by the Citer Digest Company. Copious annotations are found throughout the three volumes of this work. There is a good general index together with interesting and helpful indices and tables of statutes in the third volume. These indices deal with superseded and repealed sections of the Revised Statutes and with local and special laws omitted from the Code of the Laws of the United

States and with Resolutions of Congress; with Court Rules, with Treaties and Conventions, and with Proclamations of the Presidents. The tables show where sections of the Code of the Laws of the United States or Mason's Code are treated in the United States Compiled Statutes Annotated, in the Federal Statutes Annotated and in Barnes' Federal Code, and vice versa.

Of the greatest importance in their time were these United States Compiled Statutes Annotated and the Federal Statutes Annotated, the first a West publication, the second published by the Edward Thompson Company. With the coming of the Code of the Laws of the United States, the two publishers just mentioned realized that to continue a notable service to the legal profession, they must not only keep up with the lawmakers, but also with the United States Supreme Court, for the latter's construction of a statute governs. The result of their efforts to do this is the distribution of the federal laws through some fifty volumes of convenient size, the set being known as the United States Code Annotated. Besides the constructions which the courts have placed upon these laws, there are editorial features designed to make the text and annotations more useful and a mass of historical data, showing the antecedents of the particular acts or sections, with comments on the sources and the character of the changes.

Another fine feature of this set is the pocket arrangement in the back of each volume where a

cumulative supplement is slipped in each year. Furthermore, there are quarterly pamphlets issued containing the laws and annotations which became available after the publication of the latest pocket part. Three volumes of this work contain the Constitution fully annotated. Also there is a very complete index volume and one of tables, including a chronological table of laws, tables of corresponding sections to the Compiled Statutes Annotated and Federal Statutes Annotated, Judicial Code, Criminal Code, and Bankruptcy Act, and Table of Acts Repealed.

To illustrate somewhat the use of this United States Code Annotated, let us suppose you are looking up the law with reference to the service of a subpœna duces tecum on an unincorporated association prosecuted under the Sherman Anti-Trust Act. In Vol. 1 of the United States Code Annotated you will find the Table of Acts Cited by Popular Name, where in its alphabetical order you see "Sherman Anti-Trust Act (Trusts) July 2, 1890, c. 647, 26 Stats. 209 (T 15 §§ 1-7, 15)," which means, of course, that this law was enacted on the date mentioned, and is chapter 647 in the United States Statutes at Large, page 209, and is to be found in the volume of Title 15 at sections 1 to 7 and 15 in the United States Code Annotated. Turning to this convenient sized volume you find at the place indicated the following:

> "§ 7. 'Person' defined. The word 'person,' or 'persons,' wherever used in section 1, 2, 3, or

15 of this chapter shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any state, or the laws of any foreign country. July 2, 1890, c. 647, § 8, 26 Stat. 210)."

This is followed by notes of decisions. Wishing to get later authorities, you turn to the cumulative annual in the pocket just described, where under the same section number you find a more recent case directly in point. To extend your search further you would consult the last issue of the Cumulative Pamphlet Supplement.

Or, to illustrate further, suppose you are about to argue a case, and your opponent unexpectedly refers to—let us say, Section 1044 of the United States Revised Statutes, about which you find your knowledge a bit hazy. To be able to reply intelligently to your opponent's argument or to a possible question from the Court, you take the volume of the United States Code Annotated marked "Tables," and turning to the Revised Statutes table you will find that section 1044 of the Revised Statutes is incorporated in the United States Code Annotated under Title 18, section 582, where you will find satisfactory information and citations to decisions. This same method may be pursued in translating sections of the Judicial Code, Criminal Code and Bankruptcy Act into the United States Code Annotated. For the latest decisions, remember to look in the pocket part and pamphlet supplements.

The United States Supreme Court convenes at 12 o'clock and at 2 o'clock it takes a recess of a half hour for lunch. It is interesting to see how lawyers make use of that half hour in the Law Library. One who is familiar with the best law books very quickly gets what he needs to meet an unforeseen situation that has arisen during an opening argument, or his own interrupted one, and goes to lunch with a light heart; but the inexperienced lawyer only succeeds in getting his mind into more of a muddle by making an investigation in the wrong way, and he returns to the court room without lunch and in a most unhappy condition.

It sometimes happens that a lawyer wishes to refer to a law only for the purpose of refreshing his memory as to what it deals with, and is not looking for interpretations of its contents. In such a situation Barnes' Federal Code will answer his purpose. This is published in one volume by the Bobbs-Merrill Company (1919). A small cumulative supplement brings it through the year 1926. They contain all Federal statutes of general and public nature in force to the last date mentioned. In addition to the laws are reference tables and a list of the important acts by popular name.

Or he may look in the United States Code, Compact Edition, just published by the West Publishing Company and the Edward Thompson Company. In addition to the Declaration of Independence, Articles of Confederation, Northwest Territorial Government, 1787, and the Constitution of the United

States, there are the laws of a general and permanent nature down to December 3, 1928, with historical notes and tables. These tables show where sections of the Revised Statutes of 1878 and the Acts of Congress from the earliest times to December 3, 1928, have been incorporated in the United States Code, and the dispositions of sections in the United States Compiled Statutes and the Federal Statutes Annotated, in the United States Code. Also, there are included tables giving the numbers of the sections in the Judicial and Criminal Codes and their corresponding numbers in the United States Code. These are followed by a table showing the disposition of sections of the Bankruptcy Act in the United States Code, and a table of Statutes Repealed and Repealing Acts.

And now, having gone through the Statutes at Large and the Revised and Compiled Laws, our inquiry takes us back to the First Congress when the Judiciary Act was passed. (Sept. 24, 1789; Stats. at Large, vol. 1, p. 73.) The long and brilliant career of John Marshall partially eclipsed the glory of Oliver Ellsworth whom he succeeded as Chief Justice. When one begins practice in the Federal courts, his appreciation of Ellsworth increases mightily. He was born in Connecticut in 1745; was graduated from Princeton when he was twenty-one; was admitted to the bar at twenty-seven; was state's attorney at thirty-two; was chosen to represent his state in the Constitutional Convention at Philadelphia, where he, with his colleague, Roger Sherman,

proposed what became the basis of our national legislative system. That measure provided that the legislature consist of two houses—the upper, equally representative of the states, and the lower, delegates elected according to population. Daniel Webster paid Ellsworth a high compliment when he said that he got his ideas of defending the Constitution, in his famous debate with Hayne and Calhoun, from Ellsworth's two speeches before the Connecticut Convention, called to ratify the Constitution. (Brown's Life of Ellsworth, page 175.)

Ellsworth was elected to the United States Senate where he was looked upon as the leader of the Administration party and spokesman of President Washington. As chairman of the Judiciary committee of that body, his work in connection with the Judiciary Act was his greatest and most lasting service to the United States Government. He solved a problem that had baffled the ablest men of that age, for there was no model from which to copy.

This Judiciary Act is the solid foundation on which our Federal Judicial Code is based. Practice in the Federal Courts without a thorough knowledge of the Judicial Code would be as dangerous an undertaking as building a house upon the sand; for the court and opposing counsel will raise a great storm, and when the rain descends, and the floods come, and the winds blow, and beat upon a case, it will fall and do great injury to a lawyer's reputation.

Among the judicial codes in the Law Library is one annotated by James Love Hopkins, and another

annotated by Byron F. Babbitt. The Judicial Code is found in Dobie's Federal Procedure, Montgomery's Manual of Federal Jurisdiction and Procedure, Rose's Federal Jurisdiction and Procedure, Zoline's Federal Appellate Jurisdiction and Procedure, and in the Code of the Laws of the United States, Title 28. It is found annotated in the United States Compiled Statutes Annotated, Federal Statutes Annotated, Mason's Code and in United States Code Annotated.

In consulting the Judicial Code it is most important to note the many changes made by the Act of February 13, 1925, Act of January 31, 1928, amended by the Act of April 26, 1928, and the Rules of the United States Supreme Court, adopted June 5, 1928, and effective July 1, 1928.

There are several good treatises on the subject of Federal procedure. An old stand-by is Foster's Federal Practice. Another excellent work is "Jurisdiction and Procedure in the Federal Courts," by the late John C. Rose, of Baltimore, whose knowledge of the subject was extensive, he having served as United States District Attorney for two years, United States District Judge for ten years and Judge of the United States Circuit Court of Appeals from 1922 until his death on March 26, 1927. Another good book is "A Manual of Federal Jurisdiction and Procedure," by Charles C. Montgomery, published in 1927. In the appendix will be found the Judicial Code, the Act of February 13, 1925, and rules of Equity, Admiralty, the Supreme Court,

Court of Claims, and all the Circuit Courts of Appeal. This book contains also many useful forms. A new (1928) work on this important subject is a "Handbook of Federal Jurisdiction and Procedure," by Armistead M. Dobie, Professor of Law, University of Virginia. In a volume of moderate size the author has covered the wide field of jurisdiction of the federal courts, and procedure in civil, criminal and equity matters. Removal and appellate procedure have received careful treatment; and painstaking care has been bestowed on helpful notes and a list of cases as authorities. Special attention is given to the sweeping changes made by the Act of February 13, 1925.

A work in several volumes designed to provide a comprehensive treatise upon the jurisdiction of federal courts is the Cyclopedia of Federal Procedure (civil and criminal), by George Foster Longsdorf with complete forms by Clark A. Nichols (Callaghan and Company, 1928).

A book used in federal criminal practice is one entitled "Federal Criminal Law and Procedure," with forms of indictment, and writ of error, and the Federal Penal Code, by William H. Atwell. (4th Edition, 1929.) In producing this valuable work the author has drawn upon his years of practical experience as United States District Attorney and Judge of the Federal Court for the Northern District of Texas.

The practical experience gained by Mr. Paul P. O'Brien, in his twenty-five years' connection with

the Clerk's Office of the United States Circuit Court of Appeals for the Ninth Circuit adds great value to his little book published last year. It is entitled "A Manual of Federal Appellate Procedure." In the appendix are the rules of the United States Circuit Court of Appeals of the Ninth Circuit and the United States Supreme Court rules and other matter that will be helpful in Federal practice. Nor should we fail to mention a book published in 1927 by Mr. Charles P. Williams, of the St. Louis bar, called "A Treatise on Federal Practice." This work is a second edition and embraces jurisdiction, civil, criminal, appellate and admiralty procedure, with references to the Code of Laws of the United States. It contains also a text of the Judicial Code, the Equity Rules, the rules of practice of the United States Supreme Court and Admiralty rules. Because of the radical changes in Federal appellate jurisdiction and procedure, a third edition of Zoline's Federal Appellate Jurisdiction and Procedure has just been published (1928). This work, revised by Mr. Alexander Holtzoff, of the New York Bar, contains in addition to valuable text matter, many forms as well as the rules of the United States Supreme Court and those for each of the Circuit Courts of Appeals.

A late book on Federal procedure is "Appellate Practice and Procedure in the Supreme Court of the United States" by Reynolds Robertson, for years an assistant to the Clerk of the Supreme Court of the United States. Alfred F. Mason in his "Where to Find the Law" (Cooley's "Brief Making and the

Use of Law Books," 4th edition), says "Even lawyers who devote their entire time to practice before the Federal courts are often unable to give specific information as to the Federal court rules, and most of them do not pretend to any compendious knowledge of what these rules really are. The usual practice is to 'ask the clerk.' " Mr. Robertson's book answers these questions; and in addition contains actual reproductions of the various forms an attorney must file in order to comply with the rules of the court.

Mention has been made of a lottery in the District of Columbia. We will now see its connection with the Judicial Code. Congress had passed an act authorizing the establishment of the lottery, for the purpose of helping out with the local building funds. Evidently the officials were having trouble in disposing of all their tickets here, for we find they were being sold in Norfolk, Va., in the year 1820. That was a memorable year for two merchants in that seaport town, for in the summer of that year the Commonwealth Attorney in the Quarterly Session Court gave that court to understand and be informed that a certain act of the Commonwealth of Virginia provided that "no person or persons shall buy or sell within the said commonwealth any lottery tickets." He further gave the court to understand and be informed that P. J. and M. J. Cohen—"being evil disposed persons, and totally regardless of the laws and statutes of the said commonwealth—did unlawfully sell, vend and deliver—lottery tick-

ets." Despite this somewhat uncomplimentary introduction of the Cohens, they seemed to have arranged with the court to have the case submitted on agreed facts. This was done, and they were convicted and fined $100 and costs. They asked for an appeal which was denied because there was no other court in the commonwealth that could revise the judgment of this one. However they had relied on an act of Congress in their defense and the Cohens claimed that they had the right to sell the tickets in Virginia. They obtained a writ of error from the United States Supreme Court and the case came up before Chief Justice Marshall. Little did these laymen dream that they were thus to add their names to the list of famous cases of the world. By the time the case came up for argument, the plaintiffs may have forgotten all about the matter; but this was what Carson called "the golden age" of the Supreme Court, and there were lawyers at its bar who saw much more in the case than the recovery of a hundred-dollar fine. The plaintiffs in error were represented by William Pinkney, concerning whose argument a year or two before in the case of *M'Culloch v. the State of Maryland,* Justice Story wrote, "I have never in my whole life heard a greater speech. It was worth a journey from Salem to hear it." And that, too, was before the days of swift trains and comfortable motor cars. Pinkney had not lost his oratorical powers and in this Virginia case made a brilliant argument to dismiss the appeal.

The motion was denied. Chief Justice Marshall answered the arguments of the attorneys for Virginia in an opinion that firmly established the supremacy of the Federal judiciary over state courts under the 25th section of the Judiciary Act, and made clear the provisions of the Eleventh Amendment to the Constitution. But the conviction of the Cohens was sustained on the ground that the act of Congress establishing the lottery gave them no right to violate the law of their State.

CHAPTER II

Federal Reports and Digests

By the Judiciary Act of September 24, 1789, there were created one Supreme Court, thirteen district courts and three circuit courts. The Supreme Court consisted of a Chief Justice and five Associate Justices, holding two sessions annually at the seat of government. The opening session of the United States Supreme Court was held as provided by law on Monday, the first day of February, 1790, in New York City, then the seat of the national government. There were present, Chief Justice John Jay and Associate Justices Cushing and Wilson. Lacking a quorum the court adjourned the meeting to the following day, when with the added presence of Justice Blair, the United States Supreme Court was opened and ready for business.

Jay had ardently approved of the Constitution and, with Alexander Hamilton, had worked hard to secure its ratification in the State of New York. We are told that he held so high a place in the estimation of George Washington that upon the organization of the Federal government he was allowed by the latter the choice of any public office to be filled by the President's appointment. He chose to be Chief Justice and served in that capacity until 1795.

You may have been informed that President Taft had no precedent when he nominated Associate Justice White for the Chief Justiceship. That is a mis-

take. What your informant meant was that Justice White was the only Associate Justice who ever became Chief Justice. We mention this here for the reason that Associate Justice Cushing, just referred to, was nominated Chief Justice by President Washington but declined the office. In the appendix to Volume 134 of the United States Supreme Court Reports is a fac similie of the minutes of the first sitting of the court. The name of Justice Wilson is spelled with two "ls" instead of one. This mistake is remarkable for the reason that he was one of the signers of the Declaration of Independence and his signature to that famous document should have been familiar to the clerk.

There have been published 279 volumes of the United States Supreme Court Reports. An unwritten rule of the court requires that all volumes of the reports, up to volume 91, shall be cited by the name of the reporter.

The first reporter was Alexander James Dallas. He was a Pennsylvania lawyer and was Secretary of the Treasury in President Madison's cabinet from 1814 to 1816. The second, third and fourth volumes of his reports contain cases of the United States Supreme Court through the term of 1800, and those decided in other courts of this country before and after the Revolution.

A noteworthy case in the second volume of Dallas' reports is that of *Chisholm v. The State of Georgia.* The Constitution, then new and untried, was looked upon by many as a juggernaut, ready to

crush the states, and this case intensified a fear of this unseen but powerful menace. Chisholm, a citizen of the State of South Carolina, sued the State of Georgia in the Federal court; and the Supreme Court held that under the Constitution a citizen of one state had the right to sue another state. This decision showed that something would need to be done with the Constitution to prevent a like humiliation of a state; so the people set to work and very soon the Eleventh Amendment was proposed and ratified, thus making it impossible for a state to be sued in the Federal courts by the citizen of another state.

The third volume of Dallas' reports should be remembered for the reason that it contains the case of *Ware v. Hylton,* the only one that Marshall argued in the United States Supreme Court. It might be encouraging to a briefless lawyer to know that it was also lost by him. The first case in which the court passed upon the constitutionality of an act of Congress is also reported in this volume; this is the case of *Hylton v. U. S.* One of the attorneys in this case was Alexander Hamilton.

William Cranch, whose reports cover the period from 1801 to 1815, inclusive, was a Justice of the United States Circuit Court for the District of Columbia. He also reported cases in the United States Circuit Court for the District of Columbia from 1801 to 1841. In Vol. 1 of Cranch's reports are found the first cases decided by the United States Supreme Court in the City of Washington and the first opinions of Chief Justice Marshall, who took his

seat on the bench February 4, 1801. We are told that the newspapers gave only two or three lines in chronicling that great event.

What Binney said of Marshall's elevation to the bench and his long and useful service to the nation could fittingly be applied also to many of our Federal judges. It was this: "The Providence of God is shown most beneficently to the world, in raising up from time to time, and in crowning with length of days, men of preëminent goodness and wisdom."

The year 1802 is remarkable in its connection with the Supreme Court. The terms of that court had been held in February and August. An act of congress of February 13, 1801, provided that they should be held in June and December. The court sat in December and then adjourned, expecting to meet in June, 1802, but before that date was reached Congress repealed the act, abolished the August term and provided that the court should have only a February term. For that reason there was no sitting of the court during the year 1802.

To Cranch fell the honor of reporting the celebrated case of *Marbury v. Madison,* found in volume one of his reports. This case has been cited in no less than 53 volumes of the U. S. Reports. The last citation to it is in the much talked of case of *Myers v. U. S.,* reported in Vol. 272 U. S., page 52.

It was while Cranch was reporter that the trial of Aaron Burr took place in Richmond, Va. Seldom has one caused more excitement. To some, Burr was a scoundrel of the deepest dye: to others, he

was a hero. President Jefferson believed him guilty and wished to see him convicted. Chief Justice Marshall presided at the trial. Burr had been a member of Washington's military family; he had tied Jefferson in a race for the Presidency and had become Vice-President; he was famous as a lawyer and politician in the State of New York; he had killed the brilliant Alexander Hamilton in a duel over politics. There was something fascinating about this man fallen from a high estate, pictured by many as a ruler of a great empire somewhere in the golden west. At his trial were Luther Martin, Maryland's great advocate; Edmund Randolph, ex-Attorney General and Secretary of State; William Wirt, young in years but one of Virginia's finest lawyers; Charles Lee, another ex-Attorney General of the United States; Henry Clay, whose success in defending criminals was such that he had said of himself: "I fear that I have saved too many who ought to be hanged." This Burr case was not before the United States Supreme Court, but many of the affidavits relating to the case and the opinion of Chief Justice Marshall on the admissibility of evidence are published in the appendix to Vol. 4 of Cranch's reports.

In the last volume of Cranch's reports (Vol. 9) is the famous case of the *Nereide*. This ship, sailing from England to South America and carrying as part of her cargo neutral goods, was captured by an American privateer and brought to the port of New York, and the cargo condemned. In the Su-

preme Court the case was argued on the one side by Dallas, the former reporter, and Pinkney, and on the other side by J. Ogden Hoffman and Thomas Addis Emmet. Chief Justice Marshall wrote the opinion and in complimenting the argument of Pinkney suggested that oratory, however brilliant, will not change dull, stubborn facts. Said the Chief Justice, in referring to Pinkney's word painting of the freighter: " * * * so exquisite was the skill of the artist, so dazzling the garb in which the figure was presented, that it required the exercise of the cold, investigating faculty which ought always belong to those who sit on this bench, to discover its only imperfection—its want of resemblance."

Pinkney's opponent, Emmet, was a brother of the famous Irish patriot. As an exile he had come to New York where he soon became the leader of the Bar. Of his argument in this case, Justice Story wrote: "His speech was greatly admired for its force and fervor, its variety of research and its touching eloquence. It placed him at once by universal consent in the first rank of the American advocates—but not before Mr. Pinkney."

During the period that Justice Story sat upon the bench he had the opportunity to learn of the best speakers, and replying to a request in the year 1840 he furnished a list of those whom he considered to be great contemporary orators. The list is as follows:

Massachusetts

Fisher Ames	Edward Everett
Samuel Dexter	Daniel Webster

Harrison Gray Otis — John Q. Adams
Josiah Quincy

Maryland

Luther Martin — William Pinkney

Virginia

Patrick Henry — John Randolph
James Madison — William Wirt
John Marshall

Delaware

James Bayard

New York

Alexander Hamilton — John Wells
Rufus King — Thomas A. Emmet
Joseph Wells

Pennsylvania

John Sergeant — Horace Binney
Joseph Hopkinson

North Carolina

William Gaston

South Carolina

Robert G. Harper — Robert Y. Hayne

Kentucky

Henry Clay

One of the most interesting, as well as learned reporters, of the U. S. Supreme Court was Henry Wheaton, whose twelve volumes cover the years from 1816 to 1827. Mr. Wheaton was also an author of note. His greatest work, entitled "Elements of International Law," has been republished in many editions in this country and translated into several

foreign languages. The reports published by him are of exceptional value.

It is in Wheaton's reports that we find the outstanding cases applying to the Constitution. In Vol. 1 is the case of *Martin v. Hunter,* showing the relation of the states to the Federal Government. A clear exposition of the nature of the Constitution is given in the case of *McCulloch v. Maryland,* published in the fourth volume. The jurisdiction of the United States is fully discussed in *Cohens v. Virginia,* in Vol. 6, and *Gibbons v. Ogden,* in Vol. 9. The opinion in the first of these cases was written by Justice Story, the other three by Chief Justice Marshall. In the fourth volume of Wheaton is reported the famous *Dartmouth College* case. Surely no other reporter has ever had the good fortune to hear so many great lawyers as did Wheaton between the years 1816 and 1827.

If the reader should care to know just what sort of speech-maker Marshall was, let him turn to the appendix to Vol. 5 Wheaton and he will find a speech delivered by him when a member of the House of Representatives of the United States, relative to Thomas Nash, alias Jonathan Robins. While aboard a British frigate Robins murdered a man and escaped to the United States. At the request of the British authorities President Adams delivered him up to that government. In a debate on a resolution relative to this matter, Marshall showed conclusively that under the powers granted the President by the Constitution he had the right to do this.

Mr. Wheaton was succeeded by Richard Peters, Jr., who published sixteen volumes of the reports from 1828 to 1842. From the preface and a copy of correspondence between Mr. Peters and a Mr. McKellar found in an extra volume unofficially published by Mr. Peters, and numbered 17, one learns that a reporter is expected to "mind his p's and q's" or rather, punctuation, to an extraordinary degree. The preface of Peters' first volume informs the reader that by an act of Congress "the decisions of the court shall be sold to the public at large, at a price not exceeding $5.00 per volume." In 1926 Congress ordered the Public Printer to furnish the reports of the court to be sold by the Superintendent of Documents to the public at large, at the cost of printing and binding plus 10%.

In the ninth volume of Peter's reports are found the last opinions of Chief Justice Marshall. He died in Philadelphia July 6, 1835.

> "The Constitution which began as an agreement between conflicting states, Marshall transformed into a charter of national life. When his own life closed his work was done—a nation had been made."

In the tenth volume of Peter's reports will be found copies of the resolutions adopted by the bar of the United States Supreme Court on the death of Marshall and also those of the bar of Charleston, S. C. In receiving the resolutions, Justice Story announced that the Justices would wear crepe on

their left arms during the term as a fit expression of their grief. Justice Story was a devoted friend of the great Chief Justice. There is a marble bust of the former in the Law Library. It was made by his son, William Story, and presented by him to the Court. Only the busts of the Chief Justices adorn the walls of the court room. The bronze statue of Chief Justice Marshall, on the Capitol terrace, was the work of this William Story. It was presented to the government by the lawyers of the United States.

The first opinions of Chief Justice Taney are found in the eleventh volume of Peters' reports. One of the first important cases decided by Chief Justice Taney was that of the *Charles River Bridge v. Warren Bridge,* argued by Daniel Webster, Walter Jones, William Wirt and Simon Greenleaf. The last-mentioned is best known to the legal profession by his Treatise on the Law of Evidence, of which there have been more than sixteen editions. Among the prominent lawyers admitted to the bar while Peters served as reporter were Rufus Choate (6 Pet.); James Buchanan, who became the 15th president of the United States (7 Pet.); John Catron, who was admitted to practice before the Supreme Court and at the next term sworn in as one of its Associate Justices; and David Dudley Field, whose fame rests chiefly on his achievements as a law reformer. Field also enjoyed the distinction of having a brother, Stephen J. Field, and a nephew, David J. Brewer, on the bench of the United States Supreme Court (13 Pet.). His brother, Cyrus

W. Field, was the promoter of the first submarine cable between Europe and America.

The fifth reporter, Benjamin Chew Howard, served the court for some twenty years, and the volumes of his reports outnumber those of any of his predecessors; being twenty-four.

Mr. Howard saw something during the December, 1848, term of the court, of the importance of which he was unaware. That was the admission to the bar of that court of two men of whom much was to be heard later. Among the names on the list of attorneys admitted, found in the seventh volume of his reports, are those of Abraham Lincoln and Judah P. Benjamin. Benjamin was a Louisiana lawyer, who served as Secretary of War and Secretary of State in the cabinet of Jefferson Davis. After the war he went to England where he became one of the greatest lawyers of that country. While waiting for business in England, Benjamin wrote his work on Sales, which came to be regarded as a legal classic. He was called to the English bar in 1866, and acquired an enormous practice. It is said that in the year 1880 Benjamin's income at the London bar was about $80,000. There is a story that on being asked what his rule was as to fees, Benjamin jokingly replied, "First, I charge a retainer; then I charge a reminder; next I charge a refresher and then I charge a finisher."

The lists of attorneys admitted to the Supreme Court are to be found only in the reports of Peters, Howard and Black. During the term that Lincoln

and Benjamin were admitted there were 79 lawyers listed. At the last term of this court (1928) there were 613 admitted.

In volume 23 of Howard's reports there is the case of *Luco v. U. S.,* remarkable for the reason that a photographer, who was a witness as to the genuineness of a certain important document in the case, attached to his depositions photographs of the original. This was nearly seventy years ago. Accustomed as we are today to the tricks played upon our eyes by the moving picture photographer, it is not a little amusing to find the attorney in the Luco case saying: "By the employment of the beautiful art of photography, this tribunal can examine the assailed title, and contrast it with the papers of undoubted genuineness, with the same certainty as if all the originals were present, and with even more convenience and satisfaction."

The science of photography has been helpful in furnishing explanatory evidence but that was paying it too high a compliment. Through imperfect lenses or through clever manipulations the copy of a writing might be inaccurate. Today, in presenting the photographic copy as evidence of a disputed handwriting, an attorney must be prepared to overcome the many objections from opposing counsel that might be urged against its admission.

With recollections of the filming of one of our modern photoplays a lawyer is apt to smile when he reads these lines in the opinion of a Georgia court: "We cannot conceive a more impartial and truthful

witness than the sun, as its light stamps and seals the similitude of the object on the photograph put before the jury; it would be more accurate than the memory of witnesses, and as the object of all evidence is to show the truth, why should not this dumb witness show it?"

When Mr. Howard became a candidate for the office of Governor of Maryland in 1861, he resigned as reporter and was succeeded by Judge Jeremiah Sullivan Black (1861-1862). Judge Black was the most distinguished of the reporters, having been a member of the Pennsylvania Supreme Court, Attorney General of the United States and Secretary of State of the United States before he served as reporter. After his resignation as reporter he devoted himself to his law practice, and took part in many celebrated cases. He was counsel for President Johnson in the impeachment trial in 1868, but withdrew from the case. He also represented Tilden before the Electoral Commission in a battle for the Presidency of the United States. This commission was made up of fifteen men, five from the House, five from the Senate and five from the United States Supreme Court. The scene of the battle was the present Supreme Court chamber. Had you been there on February 2, 1877, you would have seen in the heavy artillery or on the firing line Jeremiah Sullivan Black, Charles O'Conor, Richard T. Merrick, William M. Evarts and others, the very flower of the bar at that period. There are but two volumes of Judge Black's reports of United States Supreme

Court cases (1861-1862). When you have occasion to use them you may remember that he was not only a reporter but a splendid lawyer; and when you win a decision in a just cause you may recall his famous telegram telling of a victory in the United States Supreme Court. The homes of General Black's clients were saved by the decision. Messrs. Lawrence, Peck and Shannon were his colleagues. His telegram read:

> "Opinion by Davis. Miller affirmed. Lawrence sustained. Shannon honored. Peck glorified. Justice vindicated. Truth triumphant. Settlers protected. The Lord God Omnipotent reigneth."

Chief Justice Taney died on the 12th of October, 1864, having presided for more than 28 years. Reverdy Johnson, the leader of the American Bar for many years, in presiding over the meeting to draft resolutions on the death of Chief Justice Chase, said: "The labors of Marshall and Taney, covering so many years of service, do, more and more, as time rolls on, command the admiration of the profession and of the country."

The last of the Supreme Court reports to be cited by the name of the reporter are those of Wallace. He also was a Pennsylvania lawyer, and for a while was standing master in chancery in the Pennsylvania Supreme Court. His reports of the United States Supreme Court number 23 and cover the period from 1863 to 1876, a period when the court was getting the back-wash from the storms of the Civil

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War. We will mention briefly the case of *Milligan,* reported in Wallace 4, page 2. Milligan had been tried by a military commission in Indiana on the charge of conspiracy and other disloyal practices against the government, found guilty and sentenced to be hanged. He applied to the United States Circuit Court in Indiana for a writ of habeas corpus. That court, being unable to agree, certified the question of law to the United States Supreme Court. Five members of the Supreme Court were appointees of President Lincoln. When the case was argued there, we find Judge Black on the firing line, this time as counsel for Milligan, and associated with him were David Dudley Field and James A. Garfield, who became President of the United States in 1881. The court hearing this Milligan appeal had to pass on the legality of the military tribunal which tried him. Until he has read this case, a lawyer cannot have a full conception of the independence of the Supreme Court; and to appreciate its extent, certain historical facts must be borne in mind. The country had just passed through a civil war, when the executive branch of the Government, in full control of the Army, had been the supreme power. The legislative branch, in attempting to carry out its reconstruction program, was backing the military. President Lincoln had been assassinated and the country, clamoring for more vengeance because of it, could hardly believe that under such circumstances the Supreme Court would dare hold the military tribunal illegal. In the City of Washington,

where the civil courts were open, a military tribunal had but a short while before this tried, convicted and sent to death the parties charged with this assassination. As just stated, five members of the Supreme Court had been appointed by Mr. Lincoln himself. Despite all this, the court held that neither the President nor the Congress had the power to institute such a military commission, except where war was being actually waged and the civil courts closed. What made this decision the more astounding was that the opinion was read by Justice Davis, Lincoln's old friend. Milligan was released. While this decision was bitterly denounced in some quarters, it removed all doubt as to the independence of the court and showed, as one of the Washington papers of that day put it, that "above the might of the sword, the majesty of the law is thus raised supreme."

From volume 2 to 17 of Wallace's reports are found all the opinions of Chief Justice Chase, whose term of ten years was brief as compared with those of Marshall and Taney.

The last volumes of Wallace's reports contain the opinions of Chief Justice Waite, who took his seat on the Bench March 4, 1874.

It will be seen that of the seven reporters whose names will go down through our judicial history, four (Dallas, Peters, Black and Wallace) are from the State of Pennsylvania. This would refute the witty statement made by Senator Ingalls, of Kansas, against the State of Pennsylvania. In answering

a Pennsylvania senator who had made, in a debate, an unkind remark about Senator Ingall's beloved State of Kansas, Mr. Ingalls said, "Mr. President, Pennsylvania has produced but two great men: Benjamin Franklin, of Massachusetts, and Albert Gallatin, of Switzerland."

In describing the volumes of the reports which must be cited by the names of the reporters, mention is made of contemporary Chief Justices, certain leading lawyers and events, that the dates of these reports may be the more easily remembered. Beginning with Vol. 91, the United States Supreme Court reports are cited by numbers. Chief Justice Waite's opinions are in these volumes up to No. 127. From Vol. 128 to Vol. 218 are found the opinions of Chief Justice Fuller, who took his seat on October 8, 1888. Chief Justice White presided from 1910 to 1921, but you will remember that he had been an associate justice for sixteen years before he became Chief Justice. His opinions as Chief Justice are contained in Volumes 219-256. His first opinion as Associate Justice is in Vol. 153, making in all 104 volumes carrying his opinions.

A volume of the early United States Supreme Court Reports covered several terms, but as the country grew and business and litigation increased the decisions for a term increased in number and now usually fill three volumes. The decisions for the October Term, 1928 fill but two volumes.

In these days there is no time for the Court to hear long arguments. One hour is allowed to each side.

In unusually important cases additional time is sometimes allowed when requested before argument. Today the successful lawyer opens his argument by stating clearly and candidly and in as few words as possible the essential facts in the case and the principles of law upon which he relies. This is followed by a detailed statement and argument and citation of authorities. There is an old saying that "the case that is well stated is more than half argued." Ex-Justice Clarke in an address delivered at the annual dinner of the New York University Alumni, February 4, 1922, said that "such a statement would have saved many a lawyer from those questions from the Bench which have sometimes proved so disconcerting to counsel and often disastrous to an otherwise sufficient argument" (Am. Bar Ass'n Jour., Vol. 8, p. 263).

An inexperienced lawyer needs a clear "run-way" to make a successful "hop-off" on an oratorical flight. It is not important to remember particular words or phrases, but he should know well all the facts and legal principles connected with his case. At times memorizing an opening speech is fraught with danger. Mr. Francis L. Wellman, in his book, "Gentlemen of the Jury," tells this story: "Appearing before an English judge, a young lawyer whose memory failed him at the beginning of a long speech which he had prepared in advance, resorted in confusion to repetition of his opening words: 'The unfortunate client who appears by me—the unfortunate client who appears by me—my Lord, my

unfortunate client—' The Chief Justice, Lord Ellenborough, interrupting, almost whispered in a soft and encouraging tone, 'You may go on, sir,—so far the court is with you.' " Mr. Wellman adds, "By way of contrast to Lord Ellenborough's remark, I am reminded of the story of another judge who, under similar circumstances, said to the embarrassed, hesitating lawyer, 'Excuse me for a minute, I am not at liberty to pay you attention,' and then proceed to write a letter to a friend. When he finished, the young lawyer had recovered himself and proceeded to make a very acceptable address to the jury."

There are other editions of the Supreme Court reports. The set known as the Lawyers' Edition, published by the Lawyers Co-operative Publishing Company, is very useful with its head-lines, head-notes, statements of cases, points and authorities of counsel, foot-notes and parallel references. Volumes 1 to 61 are supplemented by Rose's Notes. Another good feature is the table of cases affirmed, reversed or reheard. This table gives the case in the reports of the State and lower Federal Courts and shows how they were disposed of in the United States Supreme Court. It also shows how cases reported in A. L. R. have fared in the highest tribunal. It is interesting to note that of the twenty-two cases in A. L. R. going to the United States Supreme Court, only three have been reversed. One of these three was the case of *Burns Baking Company v. Bryan*, 264 U. S. 504, in which Justices Holmes and Brandeis

dissented. The dissenting opinions are, of course, published in full in these volumes.

Some wit has said that a dissenting opinion is a great consolation to the losing advocate. Chief Justice White, taking a more serious view of it, said in his celebrated dissenting opinion in the case of *Pollock v. Farmers Loan and Trust Company* (157 U. S., p. 429), that "the only purpose which an elaborate dissent can accomplish, if any, is to weaken the effect of the opinion of the majority, and thus engender want of confidence in the conclusions of the courts of the last resort" and added that his reason for writing a dissenting opinion in that case was because he considered "that the opinion of the court just announced is to overthrow a long and consistent line of decisions, and to deny the legislative department of the government the possession of a power conceded to it by universal consensus for one hundred years, and which has been recognized by repeated adjudications of this court." The principle announced in this dissenting opinion became the law of the land by the adoption of the sixteenth amendment to the Constitution.

The strong dissenting opinion of Justice Iredell, in the case of *Chisholm, Executor, v. Georgia,* played an important part in bringing about the eleventh amendment to the Constitution. There are numerous instances where legislation to correct a wrong or unpopular decision might be traced back to doctrines contended for in dissenting opinions..

The West Publishing Company issues a set of the

United States Supreme Court reports known as the Supreme Court Reporter. It begins with Volume 106 of the official edition, for the October Term, 1882. These reports have West's Key Number arrangement. The key number before a syllabus of an opinion directs the reader to the volume, page and section in the American Digest where like cases are digested. The last number of this set is 49, covering volumes 278 and 279 of the official edition.

Next comes the reports in the Federal Circuit and District Courts. The early volumes of these reports bore the names of the reporters. In the first circuit there are the reports of Gallison, Mason, Sumner, Story, Woodbury and Minot, Curtis, Clifford and Holmes for the period from 1812 to 1878. The second circuit reporters were Paine and Blatchford. In the third circuit Wallace, Peters, Washington, Baldwin and Wallace, Jr., reported cases between 1801 and 1862. For the fourth circuit, between 1802 and 1879, there were reports of Brockenbrough, Taney, Chase and Hughes. Woods reported in the fifth circuit; Wheeler in the sixth; Bond and Flippin in the sixth and seventh. McLean and Bissell also reported some seventh circuit cases. Hempstead, Woolworth, Dillon and McCrary in the eighth, and McAllister, Deady and Sawyer in the ninth.

There were distinguished men among these reporters also. For example, Justice Bushrod Washington, a nephew of George Washington, and an associate justice of the United States Supreme Court, reported cases in the Court of Appeals in Virginia

and also cases in the Federal courts of the third circuit. John McLean was Postmaster General and an Associate Justice of the Supreme Court, but among lawyers his name is best known as the publisher of "The Reports of the United States Circuit Courts." In earlier times the profession of court reporting ranked high in this country and abroad. The great English Chief Justice, Lord Coke, was probably as proud of his reports as he was of his title or his opinions. Today we hear little of the men whose learning, skill and painstaking care make it possible for a lawyer to rely with certainty upon the reports of current cases.

The year 1880 marked a new era in the reporting of United States District and Circuit Court cases. Before that time the reporting had been done in a haphazard manner, and it was well nigh impossible for lawyers to get decisions of the Federal courts. Beginning with this date, 1880, the West Publishing Company has furnished reports of the decisions of the Federal district and circuit courts as quickly as practicable, and the Federal Reporter has become recognized as the official reporter of those courts. These reports are published in two series, the first, in 300 volumes, covering the period between the years 1880 and 1924, and the Federal Reporter, Second Series, since then. There are now 31 volumes of the second series, bringing the reports down to June, 1929. Since the year 1919 (258 Fed.), the opinions of the Court of Appeals of the District of Columbia have been published in the Federal Reporter.

In the year 1891 Congress created the United States Circuit Courts of Appeals. The following year the West Publishing Company issued the first volume of a set of reports known as "C. C. A.," in which the opinions of the U. S. Circuit Courts of Appeals are fully reported with numerous annotations, and much of it has the "key number" arrangement. As these opinions were also to be found in the Federal Reporter, the publication of "C. C. A." was discontinued in 1920 with the 171st volume.

A small but useful book, published by William W. Irwin in 1921, shows what disposition has been made of U. S. Circuit Courts of Appeals cases passed upon by the U. S. Supreme Court.

The Federal Reporter proved so satisfactory that the West Publishing Company was urged to publish the Federal, District and Circuit Court decisions prior to 1880. This was an Herculean task. Many of these decisions had never been published at all, some only in legal periodicals or in newspapers or books out of print and very difficult to obtain. After several years this company succeeded in getting together some 18,000 of these decisions. Then came the difficult problem of their arrangement. After considering several plans, the publishers decided to arrange them alphabetically, as to plaintiff, and number them consecutively. This set of reports, in thirty volumes and one digest volume, covering the decisions of the lower Federal courts from the beginning of the Government down to the year 1880, is known as Federal Cases.

Discussing the reports of Cranch awhile ago, mention was made of certain affidavits and of the opinion of Chief Justice Marshall in the Burr trial, found in the fourth volume of Cranch's reports. Should you wish to read a fuller account of the trial, turn to cases No. 14,692a-14,694a of Federal Cases. There you will find the examination of the witnesses. Had you dropped into the court room down in Richmond you would have little guessed that the lawyer propounding questions and objecting to the admission of evidence was the prisoner before the bar. If you wish to read excellent arguments on the question of admissibility of evidence read these cases. The Government had introduced evidence in proof of the overt act, but had admitted that Burr was not present when the act was done. The defense objected to the introduction of any evidence connecting Burr with this act. Burr's life, perhaps, hung on this question and it is hardly necessary to say that the lawyers for the defense and the prosecution exerted all their powers in their attempts to have Chief Justice Marshall see it their way. The argument in support of the motion was opened by Mr. Wickham; he was followed by Mr. Randolph. One of the finest compliments paid these arguments is found in Chief Justice Marshall's opinion, where he says: "A degree of eloquence seldom displayed on any occasion has embellished a solidity of argument and a depth of research, by which the court has been greatly aided in forming the opinion it is about to deliver." The court sustained the objection urged

by the defendant's counsel and, finding that under the law they had to let Burr go, the jury rendered their verdict in these words: "We of the jury say that Aaron Burr is not proved to be guilty under this indictment by any evidence submitted to us. We therefore find him not guilty."

Burr's honor "felt the stain like a wound," and jumping to his feet he demanded that the jury be directed to report their verdict in the usual form. After hearing heated arguments on this point, Chief Justice Marshall ruled that the verdict should remain as found by the jury, and that an entry be made on the record of "Not guilty."

Besides the decisions there is much other valuable matter in these volumes of Federal Cases. There are notes telling where the case is cited in subsequent reports—whether the reported case has been before an appellate court—what treatment it has received in the way of modification, reversal or affirmance. In volume one of this set there is an interesting list of the Federal judges arranged chronologically by circuits and districts, also a list of the judges arranged alphabetically. There is a list of the reports by circuits and districts—very helpful when the case has been cited by the name of the reporter only. Volume 30 contains biographical notes of the Federal judges with a brief account of all those appointed before January 25, 1894. The admiralty lawyer will find this volume particularly interesting, containing as it does the laws of Oleron, of Wisbuy, of the Hanse Towns and the Marine

Ordinace of Louis XIV. In these volumes of Federal Cases, bound in the skin of the mild-mannered and peace loving sheep, are found the wildest tales of the sea. From some dry, prosaic case on bankruptcy or the like we plunge into an admiralty case. There is the rattle of anchor chains, the creaking of ropes and spars, the ripple of green seas, as the ship cuts her way to disaster—collision, wreck, mutiny or something of the sort that brings her into the admiralty courts. Admiralty cases always bear the names of the ships involved, which accounts for that fair sprinkling in the table of cases of such fascinating titles as *"The Charming Betsey," "The Belle of the Ocean," "The Sailor's Bride"* and the like.

There is something alluring about admiralty cases. In those days almost anything might happen when a ship got out of sight of land. Pirates roamed the seas and warring nations added to the dangers. There was something shameful, too, in the disclosure of the cupidity of men in high places. For example, take case No. 15,496 in Federal Cases, which tells of the adventure of Lieutenant Jones and officers Pickle and Reese on board an American privateer (Revenge) during the War of 1812. This ship while cruising about under English colors fell in with a Spanish ship and chased her for about an hour. For the purpose of learning what the privateer was up to the Spanish ship fired two guns to windward. Drawing closer the privateer let off a broadside and the Spanish ship struck her colors. Captain Butler ordered Lieutenant Jones and some men to go

aboard the Spanish ship and search her. This they did, and brought off a quantity of gold and silver. Then the Spanish ship was ordered to make sail, which she did. Whether the Spanish captain failed to understand this order to keep out of the way is not known, at any rate the privateer again overhauled the Spanish ship headed for Savannah, Ga., and again Captain Butler held her up. This time he returned to the Spanish crew some of their clothes and threatened to sink the ship if it showed up again in American waters. Captain Butler divided the money amongst the officers and crew of his own ship, and to make matters worse put into Charleston, where no proceedings were instituted for condemning the property taken from the ship. Circuit Justice Washington, in charging the jury in this case said: "That an act of piracy, never surpassed in atrocity, has been committed in this case, cannot be denied by any person who has heard the evidence." Butler was apprehended and tried in Charleston.

For stark horror let the reader turn to case No. 15,383, and read how one Holmes, a mate in charge of a long-boat, ordered its passengers thrown overboard to save the lives as he believed of the other occupants of the boat.

This grim description of the wholesale drowning is found in volume 26 of Federal Cases, page 361: "No lots were cast, nor had the passengers, at any time, been either informed or consulted as to what was now done. Holmes was one of the persons who

assisted in throwing the passengers over. The first man thrown over was one Riley, whom Holmes and the others told to stand up, which he did. They then threw him over, and afterward Duffy, who, in vain, besought them to spare him, for the sake of his wife and children, who were on shore. They then seized a third man, but, his wife being aboard, he was spared. Coming to Charles Conlin, the man exclaimed: 'Holmes, dear, sure you won't put me out?' 'Yes, Charley,' said Holmes, 'you must go, too.' And so he was thrown over. Next was Francis Askin, for the manslaughter of whom the prisoner was indicted. When laid hold of, he offered Holmes five sovereigns to spare his life till morning, 'when,' said he, 'if God don't send us some help, we'll draw lots, and if the lot falls on me, I'll go over like a man.' Holmes said, 'I don't want your money, Frank,' and put him overboard. When one McAvoy was seized, he asked for five minutes to say his prayers, and, at the interposition of a negro, the cook, was allowed time to say them before he was cast overboard. It appeared, also, that when Askin was put out, he had struggled violently, yet the boat had not sunk. Two men, very stiff with cold, who had hidden themselves, were thrown over after daylight on Wednesday morning, when, clearly, there was no necessity for it.''

One might suppose that thrilling cases from the sea are confined to the early reports, and that radios had made the oceans as safe and prosaic as mill ponds. This would be a mistake, for when storms or

nations rage, sea-faring folk find excitement enough in spite of the newest inventions. Take, if you will, the case reported in 243 U. S., page 124. During the great war the British steamship Appam was returning to the mother country from the west coast of Africa, carrying a valuable cargo. At her stern was mounted a three-pound gun. On the high seas the German cruiser Moewe stopped her by firing a shot across her bow. The Appam made no resistance; her captain giving orders to the wireless operator not to touch the wireless instrument, and to his officers not to let anyone touch the three-pound gun. An armed crew from the Moewe boarded the captured vessel and ordered her officers and crew, excepting those of the engine room, to go aboard the Moewe. Then the Chief Engineer of the Appam received the startling information that he had become a member of the German navy; and lest he forget this, bombs were placed near the engine room, and he was told that if the German orders were not obeyed his brains would be blown out, and furthermore that bombs had been placed about the ship and would be exploded should the crew show signs of mutiny. Under these circumstances the chief engineer, believing, like Falstaff, that "the better part of valour is discretion," decided to follow the instructions given him by his German commander. The other officers, crew and passengers were returned to the Appam. For two days after the capture the Appam remained with the Moewe, then headed west. It was a strange ship. Its captain now

was Lieutenant Berg whose commission read as follows: "Information for the American Authorities. The bearer of this, Lieutenant of the Naval Reserve Berg, is appointed by me to the command of the captured English steamer 'Appam,' and has orders to bring this ship into the nearest American harbor, and there to lay up. Komando S. M. H. Moewe, Count Zu Dohna, Cruiser Captain and Commander. (Imperial Navy Stamp:) Komando S. M. H. Moewe." The last act in this drama was most pleasing to the English. When the ship was safe in Norfolk, her owners brought suit in the Federal District Court of Virginia to have the ship restored to them. During the trial of the case, under an order of the court, the perishable cargo was sold for $600,000. After an interesting trial and an appeal to the United States Supreme Court, the captured vessel and the proceeds of the sale of her cargo were restored to the English owners.

But, to go back to Federal Cases, there is a book that goes with them called "Table of Federal Cases." Where a case has been cited by its number only, this table shows under the number cited the report or place from which the case is taken. If, on the other hand, the case is cited in a volume of reports, this table of citations gives its number in Federal Cases.

We now come to the digests of the decisions of the United States courts.

The West Publishing Company has recently issued a new work called the Federal Digest, which covers

the Federal Reporter from Vol. 1 to Vol. 300 and the Supreme Court Reporter from Vol. 1 to Vol. 44. They have also published a Federal Digest in two volumes for the Federal Reporter (2nd Series) covering Vols. 1 to 30 and Vols. 45 to 48 of the Supreme Court Reporter. Being "West" publications, all these digests have the "key-number" systems explained hereafter. There are several digests of cases in the District of Columbia Appeals reports. First, there is one by Maupin, which included cases to 1899; next, one by Torbert, from 1893 to 1908. Then follow two supplemental volumes by Torbert, the first covering the period from 1908 to 1914, the second from 1914 to 1920. Since May, 1919, the volumes of the District of Columbia Appeals reports have been published by the West Publishing Company, and these cases are also reported in the Federal Reporter. Therefore, since 1919, cases in the District of Columbia Appeals reports are found digested in Vols. 12, 13 and 14 of the Federal Reporter Digest, hitherto described, and the digest of the Federal Reporter, 2nd Series.

Another much used digest is one published by the Lawyers Co-operative Publishing Company in 1908. Besides the cases each volume contains a list of all the cases in the Federal and State courts that have cited the digested case. Vol. 6 of this set contains an unusually helpful table of cases, for it not only gives the names of the plaintiff and the defendant and the volume where the case may be found, but also a reference to the digest for the subjects dis-

cussed in the case, and, furthermore, tells whether the decision affirms or reverses that of the lower court, what the court was, and where the opinion of the lower court may be found. Following this is a table of cases affirmed or reversed. This is brought to the 1922 Term by two supplements.

The publishers of this work are now issuing volumes of the Digest of the United States Supreme Court Reports, covering Vols. 1 to 274 of the official edition, 1 to 71 of the Lawyers' Edition, and 1 to 47 of the Supreme Court Reporter. In addition to the digest there are parallel references to L. R. A. and A. L. R., index to notes in the Lawyers' Edition reports, table of statutes, etc., construed, cited, etc., table of cases digested, affirmed, reversed, etc., table of statutes cited by popular names and the late court rules, a large amount of additional matter has been included in this recompilation.

An important feature of this new digest is the pocket part in the back of each volume where one should be sure to look for the latest information.

Should you wish to know if a case in Federal Cases, Federal Reporter, or any State report has been affirmed or reversed by the United States Supreme Court, or if a constitution or statute (Federal or State), Proclamation or Treaty has been construed by that court, look at the list of Cases Affirmed or Reversed and the list of Statutes, Constitutions, Proclamations and Treaties Construed in this Lawyers Co-operative Publishing Company's Digest. Such information is carried forward as

heretofore stated, in the same designated lists in the front of each volume of the United States Supreme Court Reports, Lawyers' Edition.

In the year 1899 the Lawyers Co-operative Publishing Company issued a third edition of their "Analyzed Federal Citations, United States Supreme Court Decisions," containing a complete analytical index of all federal citations of all decisions of the Supreme Court of the United States. The cases are alphabetically arranged, with notes showing where the case has been reported, and where cited in subsequent decisions. This work furnishes a table of United States Supreme Court cases to the year 1889.

In 1917 the West Publishing Company issued a two-volume Digest of Decisions of the Supreme Court of the United States, covering Vols. 1 to 36 of the Supreme Court Reporter, 27 to 60 of the Lawyers' Edition, and 106 to 241 of the United States Reports. In point of time it covers the period from 1882 to 1916. The paragraphs in this digest give references to the three editions just mentioned, so the case may be found in whichever set the reader may have. Other authorities on the same point are found through the key-number system employed throughout the West publications. In Vol. 2 there is a table of cases which shows where the case is to be found in the reports, and references to the subject and key-number in the digest. A third volume of this digest, published in 1927, covers the period from 1916 to 1926, (Vols. 37 to 46 of the Supreme

Court Reporter, 61 to 70 of the Lawyers' Edition, and Vols. 242 to 271 of the United States Reports) with a table of cases digested. In these tables the titles are arranged alphabetically, and through them can be found any United States Supreme Court case between the years 1882 and 1926.

The Encyclopedia of the United States Supreme Court Reports was published in Charlottesville, Va., under the editorial supervision of Mr. T. J. Michie. The eleven regular and two supplemental volumes digest United States Supreme Court cases to the 1922 Term, *i. e.*, through Vol. 259.

Shelved near the United States Digests is the Complete Revised Edition of Rose's Notes on the United States Reports, in twenty volumes, covering the period from 2nd Dallas to 241 U. S. This is followed by the Supplements to the Revised Edition. Throughout these volumes the cases are arranged in their chronological order, and their present value as authority is shown by the notes.

In some opinions the court expresses itself upon a question of law which is not necessary to the decision of the case before it. The Obiter Digest, published by the Edward Thompson Company (1906), contains dicta of the United States Supreme Court from the first volume of the official edition down to volume 197. The subjects are alphabetically arranged and the quotations from the opinions of many justices of various times are set down one against the other. While this dicta is helpful, it is not controlling. In the recent case of *Myers v.*

United States, 272 U. S. 142, Chief Justice Taft calls attention to the limited effect of obiter dicta and quotes the following from an opinion of Chief Justice Marshall in the case of *Cohens v. Virginia,* 6 Wheat. 254-399: "It is a maxim not to be disregarded, that general expressions, in every opinion, are to be taken in connection with the case in which these expressions are used. If they go beyond the case, they may be respected, but ought not to control the judgment in a subsequent suit when the very point is presented for decision. The reason for this maxim is obvious. The question actually before the court is investigated with care and considered in its full extent. Other principles which may serve to illustrate it, are considered in relation to the case decided, but their bearing on all other cases is seldom completely investigated."

A reliable reference book, particularly adapted to meet the needs and save the time of a lawyer looking up a United States Supreme Court case, is the Handbook of the United States Supreme Court Decisions, by H. D. Clarke (Lawyers Co-operative Publishing Company, 1899). This book consists of an index of subjects and one of cases in the United States Supreme Court from the organization of the court to the 1899 Term. If a lawyer knows the name of either the appellant or appellee, he turns to the case indexed and there gets the volume and page of the report, the name of the justice who decided the case and the year. It sometimes happens, though, that the lawyer does not know the name of either the ap-

pellant or appellee; he does know the subject with which the case deals and the name of the judge who wrote the opinion. With this information he turns to the subject index and finds numbers of cases. Since he knows the name of the judge, his field is narrowed and he soon picks up his case. A page in this book deals with the Chief Justices and the Associate Justices of the United States Supreme Court, giving the name, age at appointment, the state from which appointed and the period of service.

Since the creation of the Court of Claims in the year 1855, more than sixty volumes of reports have been issued. The first reports and abstract of reports and digest were brought out in a volume by Mr. John C. Devereux, a New York lawyer. An appendix to this volume contains a statement of the origin and history of the court, acts of Congress relating to it, its rules, a list of commissioners to take testimony, and a list of the counsellors of the court. A few volumes of the reports between the years 1856 and 1863 were printed by James B. Steedman and the Government Printing Office. By an act of Congress, March 3, 1863, the Court of Claims was reorganized, and since then the reports have been regularly published, volume 65 being the last. Vols. 40 and 52 of the Court of Claims are of particular importance as they contain tables of all prior cases and also citations to the cases decided on appeal to the United States Supreme Court. The last digest exclusively for the Court of Claims reports is one by

Mr. Harry N. Stull, who for 23 years has been connected with the Court. (Callaghan and Co., 1929.) The reports of the Court of Claims and the United States Court of Customs and Patent Appeals are covered by the American Digest, and thereby kept digested to date.

The Court of Claims has been called "The People's Court," for there you will find all sorts and conditions of men asking to be allowed to prove damages done them by the Government. It is a maxim of law that the King can do no wrong. Among other things this meant that a subject, claiming himself damaged by an act of the sovereign, could find no redress in the King's courts. To provide a court to hear such a claim would be an admission that the King could do wrong. Now, at the time of the American Revolution the people became the sovereign power. While they hated this idea that the King could do no wrong, they did not hesitate to put into their Constitution a clause that "no money shall be drawn from the treasury but in consequence of appropriations made by law," thus depriving a citizen of the right to go into court and recover for damages done him by the Government. So it was that for more than half a century a person having a claim against the Government might hang about the doors of Congress hoping for relief. In many cases the claimant or his patience or both were worn out before Congress would take action in the matter. Congress was as powerful as any king, and our citizens, like helpless subjects, could only beg and "feed

on hope." In the year 1855 Congress, realizing that "it is excellent to have a giant's strength, but it is tyrannous to use it as a giant," created the Court of Claims. Here the claimant may prove the justness of his claim; and Congress then appropriates a sum to satisfy the judgment of the court.

In looking through the volumes of the reports of the Court of Claims one indeed plunges deep into the stream of life in the New World. Turn over the pages and you will find the judges one day discussing, in an Indian claim, the treaty made with some feathered chieftain far out in the primeval forest; another day and they are exploring the text of a grant given some bold settler pitching his tent on the fringe of Western civilization. Again, in some mail route case, we find the court journeying peacefully through shaded, flowery trails with a rural mail carrier. Yet a few pages and you are carried forward by the sweep of years to an Act of Congress dealing with claims growing out of damages done property by the army or navy during the Civil War. The late reports have much to do with contracts for supplies for the World War. In one of the last bound volumes of the reports a claimant is allowed to recover a tax paid on his stock in a golf club. These varied cases in the Court of Claims remind us of something in an address delivered by Mr. Justice Holmes at a meeting of the American Bar Association. In speaking of the law, our mistress, unfolding a panorama of man's destiny upon earth, he said: "When I think thus of the law I see

a princess mightier than she who once wrought at Bayeaux, eternally weaving into her web dim figures of the ever-lengthening past, figures too dim to be noticed by the idle, but disclosing to her pupils every painful step and every world-shaking contest by which man has worked and fought his way from savage isolation to organic social life."

CHAPTER III

State Laws—Reports—Shepard's Citations

We have been concerned in the last two chapters with the law books of the Federal Government. There are a few as yet unmentioned, and which must be briefly described before we leave them.

From time to time the Attorney General of the United States, as chief law officer of the government, is called on by the President and the heads of the departments for opinions on knotty legal questions in relation to their duties. These opinions, dating from the year 1791, have been published in some thirty-five volumes. Digests of these opinions have been prepared at intervals. From the year 1789 to 1881 there is a digest by A. J. Bentley; from 1881 to 1906, by James A. Finch; from 1906 to 1921, by George Kearney, assisted by Emily A. Spilman. There is also a four-volume set of the opinions of the assistant attorneys general for the Post Office Department, covering the period from 1873 to 1892. These relate to postal service laws and regulations.

The Court of Customs Appeals came into being by an act of Congress of date August 5, 1909. Fourteen small volumes cover the reports of this court. By an act, passed March 2, 1929, the title of this court was changed to the United States Court of Customs and Patent Appeals.

Several sets of reports and decisions of Federal officials and commissions are shelved together. The subjects treated are indicated by the titles, as Land

Decisions, Pension and Bounty Land Decisions, Comptroller's Decisions, Treasury Decisions, Internal Revenue Decisions, Federal Trade Commission Reports, Patent Decisions, Anti-Trust Decisions and Cases. The volumes of reports of the Interstate Commerce Commission now number more than 134. Visible signs of the broadening scope of the Interstate Commerce laws are the labels "Valuation Reports" and "Finance Reports," found on occasional volumes of the Interstate Commerce Commission Reports since the passage of the Valuation Act in 1913. These reports are of special interest to the lawyer wrestling with such problems as reasonable charges, sale price and security issues upon the purchase of one carrier of the property of another, reasonableness of aggregate level of rates of the country as a whole, amount of excess earnings to be recaptured from carriers, amount and conditions of security issues by carriers, etc.

We now come to the books of the States. The arrangement of them is the same as that for the United States: that is, the constitutions, session laws, revised or compiled laws, reports, digests and treatises.

Like the states themselves, their constitutions vary greatly in size. Some of them are found in just a few pages in the front of the revised or compiled laws, while others are so long that they fill a separate book. We find that the earliest state constitution—that of New Hampshire—contained only nine hundred words. That was the sort of constitution on

which Daniel Webster was brought up, and it is not strange therefore that he easily mastered it. His interest in constitutional law might have been somewhat dampened had he been obliged to wrestle with a constitution like that of Oklahoma, where about twelve thousand words are devoted to defining the boundaries of the State's counties.

The constitution of New Hampshire, figured in the celebrated *Dartmouth College* case. While volumes have been written about Webster's argument of that case in the United States Supreme Court, comparatively little is found about the arguments of the attorneys when the case was before the New Hampshire court. (1 New Hampshire, p. 111.) Webster's associates in the state court were Jeremiah Mason and Jeremiah Smith. The value of the argument of these two Jeremiahs is shown in this modest acknowledgment by Webster in a letter to Mr. Mason: "I have told you very often," he wrote, "that you and Judge Smith argued it very greatly. If it was well argued at Washington, it is proof that I was right, because all that I said at Washington was but those two arguments clumsily put together by me." (Warren's Supreme Court in United States History, Vol. I, p. 479.)

Mr. Wheeler, in his sketch of Webster (Lewis' Great American Lawyers, Vol. III, p, 29), says, "One of the first gifts to Daniel Webster, after he had learned to read in the district schoolhouse, to which he went three months in summer and three in winter, was a handkerchief on which the Consti-

tution was printed; and it was in this form that he first learned something of the contents of that instrument which in later years he did so much to expound and establish as the bond of union among the many discordant elements which existed in the United States of America." That was not a bad idea—publishing the Constitution on a handkerchief. Think what needful information a lawyer might snatch when dabbing such a handkerchief to his moistened brow in the heat of some argument before the court.

An early compilation of the state constitutions was made by Hough. His book, published in 1872, contains the constitutions of the states at that time, each accompanied by an historical introduction and notes. Another compilation of constitutions and organic laws is by Kettleborough, published by B. F. Bowen Company. A very good collection of state constitutions in seven volumes was compiled by Francis N. Thorpe. By an act of Congress passed in 1906, the sum of $10,000 was appropriated for the purchase from Mr. Thorpe of the manuscripts of a new edition of charters, constitutions and organic laws of all the states, territories and colonies then and previously forming the United States, and any acts of Congress relating to them. This also included an index prepared by Mr. Thorpe. The Public Printer was ordered to print 6,000 copies of this work—2,000 for the use of the Senate and 4,000 for the House. Changes in the Constitutions are frequently shown in the volumes of subsequent session laws.

Corresponding with the United States Statutes at Large are the volumes of laws of the States enacted by their legislative body. In most of the States these are called session laws. Massachusetts gives them the name of Acts and Resolves.

In Pennsylvania the laws passed by the State Legislature are frequently referred to as Pamphlet Laws. In South Carolina they are called Statutes at Large. These Statutes at Large of South Carolina are made up of the laws passed at the various sittings of the legislature. The laws passed by the Ohio Legislature are bound in numbered volumes, those for the year 1927 being No. 112.

Special mention must be made of the system employed in publishing the laws of the State of Wisconson. Immediately after the end of each general session of the legislature, a volume is published containing all the general statutes in force, a table of the chapters that have been revised since the year 1909 and much other useful matter. This saves a great amount of labor in the investigation of a law. In other states where the laws are revised or compiled at long intervals, a lawyer, not knowing the date of the law in which he is interested, first looks for the law in the last revision and then examines all copies of the session laws passed by subsequent legislatures.

In point of size, the most remarkable book of laws in the Law Library is one containing the special acts adopted by the Florida Legislature in 1925. This volume is more than eight inches thick and contains over 5,000 pages.

A list of all the State Legislatures shows that regular sessions are held annually in Georgia, Massachusetts, New Jersey, New York and South Carolina; in the States of Kentucky, Louisiana, Mississippi, Missouri and Virginia they are held in the even years; in the remaining states in odd years, except the State of Alabama where the sessions are held quadrennially.

After the laws are enacted by a state legislature, copies are turned over to the printer. As unusual care must be taken in their publication, it often happens that several months elapse between their passage and the date of their arrival in book form in the Law Library. When a reader is investigating the laws of a distant state, he has to be sure that he has gotten all legislative acts bearing on the subject. The overlooking of some act passed at an extra session is one of the dangers he has to guard against. In the quarterly issues of the Law Library Journal, published in conjunction with the Index to Legal Periodicals, there is a revised list of the legislative sessions of all the States with the dates of the regular sessions and the date of the latest volume to appear.

There are a few states which publish the laws either in loose-leaf or pamphlet form during the legislative session or very shortly thereafter. For example, the session laws of the State of New York are published in the Weekly Advance Sheet, Official Edition Law Reports and Session Laws.

Owing to the limited space in the Law Library,

only the state laws passed within the last fifty years are kept on the shelves. The earlier laws are in the Library of Congress. In urgent cases these may be sent over from the latter place to the Law Library on the underground electric carrier running between the Library of Congress and the Capitol. Of course the very early and rare collection of laws is kept in the locked cases of the Library of Congress, and may be seen only in that building. There are a few reprints of the early state laws in the Law Library. For instance, among the Virginia laws are Hening's Statutes at Large, "being a collection of all the Laws of Virginia from the first session of the Legislature in the year 1619." Many of the old laws collected by Thomas Jefferson were used in this work. His interest in Hening's undertaking is shown in the following letter published in the first volume of this set:

"WASHINGTON, Jan. 14, '07.

"* * * The only object I had in making my collection of laws of Virginia, was to save all those for the public which were not then already lost, in the hope that at some future day they might be republished. Whether this be by private or public enterprise, my end will be equally answered: The work divides itself into two very distinct parts, to wit, the printed and the unprinted laws. The former begin in 1662 (Purvis Collection). My collection of these is in strong volumes, well bound, and therefore may safely be transported anywhere. Any of these volumes which you do not possess, are at your service for the purpose of republication.

> But the unprinted laws are dispersed through many MS. volumes, several of them are so decayed *that the leaf can never be opened but once without falling into powder.* These can never bear removal farther than from their shelf to a table. They are as well as I can recollect from 1622 downward. I formerly made such a digest of their order, and the volumes where they are to be found, that under my own superintendence they could be copied with once handling. More they would not bear. Hence the impracticability of their being copied but at Monticello. But independent of them the printed laws, beginning in 1662, with all our former printed collections, will be a most valuable publication, and sufficiently distinct. I shall have no doubt of the exactness of your part of the work, but I hope you will take the measures for having the typography and paper worthy of the work. * * *
>
> "TH. JEFFERSON."

What was said in the beginning of this book, that "laws have so close a connection with history * * * that they must partake a little of what they are related to so nearly" is well illustrated in these early laws of Virginia. At first the settlers were busy making homes for themselves and passed a law like this:

> "That every freeman shall fence in a quarter of an acre of ground before Whitsuntide next to make a garden for planting of vines, herbs, roots, etc., subpœna ten pounds of tobacco a man, but that no man for his own family shall be tyed to fence above an acre of land and that whosoever hath fenced a garden and * * * of

the land shall be paid for it by the owner of the soyle; they shall also plant Mulberry trees."

After a massacre by the Indians, we find laws like these:

"That every dwelling shall be pallizaded in for defense against the Indians."

"That no man go or send abroad without a sufficient party well armed."

"That men go not to worke in the ground without their arms (and a sentinell upon them)."

In the last several years there has been an improvement in the volumes of the session laws of the states by reason of the tables contained therein. Take, for example, the last volume of the Michigan laws. There, following a carefully prepared index of subjects, is a table of the sections of the compiled laws amended during the last ten years with references to the volumes and pages where the amending laws are to be found. Next is a table showing which sections of the compiled laws have been repealed and where the repealing law is to be found in the session laws. Another table gives a list of the public laws enacted in the same period of time which have been amended by subsequent acts, and a table showing those acts that have been repealed.

To illustrate the value of these tables, let us suppose the reader is examining the law relating to city charters in the State of Michigan. On the shelves of the Law Library he finds a set of the Compiled Laws of that state for the year 1915. Now, if he has

a doubt as to whether this is the latest compilation, he looks at the table printed in the back of the last volume of the Session Laws entitled "Compiled Laws—Sections Amended." As all references there are to the 1915 compilation, he knows that that is the latest compilation. With that very important question settled, he turns to the Compiled Laws and finds his subject treated under Section 3307. The next question is whether that section has been changed by subsequent legislation. To settle that, he again turns to the last volume of the Session Laws, and in the table just mentioned he finds the law was amended by the legislatures of 1917, 1919, 1921, 1923, 1925 and 1927. As the volume and page numbers are given, he very quickly finds the present status of the law. Again, if the act in which the reader is interested had been passed subsequent to the compilation of 1915, he can find whether such act had been either amended or repealed by referring to tables entitled "Public Acts Amended" and "Public Acts Repealed." Let us now compare the case just mentioned with another where no such tables are printed in the Session Laws. We will say that the reader finds a compilation for the year 1915. To begin with he does not know whether there is a later compilation. He must, therefore, begin with that compilation and after finding his law there, look through all subsequent Session Laws. When he has done that, he has the unpleasant feeling that he might have overlooked an amending law either through his own carelessness or because of a poorly arranged

index to the Session Laws. Or, what would be equally annoying, after he had done all that work, he might find that had he first but consulted the catalog he would have found a much later compilation than the one at which he had looked.

Very often it becomes necessary in running down a law to know just when legislative sessions were held, the dates of revisions or compilations of laws, and the dates of constitutional conventions. To supply this information is a book called "Hand-list of American Statute Law," published by the trustees of the State Library of Massachusetts (1912). This book covers such legislative matters for the United States and its Possessions and for the several states down to May, 1912.

In the olden days, when people traveled little, a lawyer seldom had to look into the laws of any State other than his own. The automobile has changed this. Now there are thousands of people passing in and out and through all States that have passable roads. The result is that at any time a lawyer is likely to be consulted by a tourist desiring prompt information about the law of the tourist's home State or one through which he has passed or expects to enter. Two books that help in a quick survey of important State laws are Martindale's American Law Directory and Hubbell's Legal Directory, published annually. They contain synopses of the State laws and are revised annually by reputable attorneys in their respective States. Under the State heading of these synopses in Martindale, the date of the last

Revised Laws is given; in Hubbell, the date of the convening of the next legislature and uniform acts that have been adopted by that State.

As with the United States, the States from time to time have had to have their numerous laws revised and compiled. This revision is but a restatement of the laws in corrected or improved form—simply a reënactment of the old laws in force. With the increasing population, the ever changing times, and a more complete system of annotating, the revised laws of the States gather bulk. For instance, take Burns' Annotated Indiana Statutes, revised and annotated by Benjamin Franklin Watson, 1926. This work, in three volumes, fills more than 5,000 pages. Now the 1823 Revised Laws of Indiana contained but 438 pages. We are told that when Abraham Lincoln was hardly more than a boy there accidentally fell into his hands a copy of these early Revised Laws, and that he read it over and over again until he had almost committed the book to memory. Besides the laws of Indiana, this book over which young Lincoln pored contained the Declaration of Independence, the Constitutions of the United States and of Indiana, the Act of Virginia, passed in 1783, by which "The Territory Northwestward of the River Ohio" was conveyed to the United States, and the Ordinance of 1787 for governing that territory. Some of the Revised Laws are crowded into one bulky volume. New York and Texas, so far apart geographically, have set a fine example by publishing their revised laws in small

volumes, each dealing with one or at least a very few subjects. These volumes are easy to handle and convenient to carry into court or conference.

As ex-Senator Pepper put it, with reference to the distribution of the United States Code Annotated through a series of small volumes: "Mahomet need no longer seek the mountain. The mountain has distributed itself into foothills and all of them have come to him."

A careful lawyer is not satisfied until he has compared the revised law with the law as enacted. Sometimes he goes back to the enrolled copy or even to the debates leading up to its enactment. When one attaches an unreasonable importance to a statute, he might find himself in the position of a lawyer who, while arguing a case, kept referring to an involved statute. The Court interrupted him with the question:

"Where is the principle upon which you rely?"

"Your Honor," replied the lawyer, "I am quoting from the statute as passed by the legislature."

"Yes, but what is the legal principle involved in your case?"

"I rely, may it please the Court, entirely on the statute. All I know is the statute itself."

"Then," said the judge, "if that is true, the legislature can repeal all you know."

In the catalogue given by Mr. Lincoln of the books that he knew in his youth were, besides the Indiana Statutes, Weem's "Life of Washington," Bunyan's "Pilgrim's Progress," "Æsop's Fables," "Rob-

inson Crusoe," a History of the United States, whose author is not named, and the Bible. Mr. Frederick W. Lehmann, Solicitor General during President Taft's administration, in speaking of Mr. Lincoln's public letters, papers and addresses, said: "They are * * * always brief when his own ideas are to be expressed, and throughout, a simple strong statement of his meaning in the purest, cleanest Saxon English to be found outside the Bible, and in some of its strains, as in the second inaugural, rising to the loftiest ranges of the Bible itself."

A unique book among the State laws is the Civil Code of Louisiana. In the early years of the eighteenth century the military settlement in Louisiana was governed from the City of Paris. When the province was ceded to Spain in 1762 all previous laws were abolished, and it came under those applied to the Indies and other laws formulated by Spain. When, in 1803, the province was transferred to the United States, the Common Law was instituted; but these strange laws were unpopular with the Louisianians, so, moved by protests against the Common Law, Congress, by an act of 1804, allowed these newly acquired citizens the right to retain the Civil Law if it were found to be not contrary to the Constitution of the United States. After several unsuccessful attempts to provide an acceptable civil code, the Louisiana Legislature in 1822 appointed a committee to revise the old code. The result of this committee's labors was the Civil Code of 1825. It contained about eighty per cent of the provisions

of the Code Napoleon, with identical arrangement of the articles and their language. Articles from the Commentaries of Toullier, Domat and Pothier were added. Also much of the Common Law was introduced in that part of the code dealing with obligations. From time to time there have been changes made in the Civil Code; nevertheless, as was said by William Kernan Dart in his "Study of the Louisiana Judicial System," republished in the introduction to White and Dart's Louisiana Digest Annotated, 1917, "The spirit of the code adhered to the Napoleon Code, and it may be truthfully said that it is a descendant of this code, with the somewhat varied resemblance such as is usual in all families." In the Revised Civil Code, edited by E. D. Saunders, second edition 1920, the articles are printed in heavy type; next, in lighter type, are the corresponding articles of the Code of 1825; and then, in Italic type, are the numbers of the corresponding articles of the Code Napoleon.

There is something about this Civil Code of Louisiana that captivates the imagination. Looking towards its sources we see Napoleon, whose military genius struck terror to the hearts of millions, and hear him acknowledging, toward the end of his life, that the pen is mightier than the sword, in words like these: "My true glory is not in having won forty battles; Waterloo will blot out the memory of those victories. But nothing can blot out my Civil Code. That will live eternally." (De Montholon, Recit de la Captivite de l'Empereur Napoleon, 401.) Back

of Napoleon, in the shadowy far off times, we catch glimpses of men of various nations, some threads of whose laws and customs are woven into the tapestry of organic social life.

The earliest reported cases in this country are those of the Provincial Court of the Province of Maryland. The first case reported is that of Stone v. Boreman, decided in the year 1658. It is gratifying to know that this first reported case ended satisfactorily to both plaintiff and defendant. The defendant, Boreman, had been issued a warrant for four hundred acres of land at a place called Nanjemoy, which he failed to pursue in the time prescribed. Later the land was entered by Mr. Stone, plaintiff in the case. In settling the matter the court gave the land to Stone but ordered that the defendant should have his four hundred acres in some other convenient place. This case is reported in Vol. 1, page 1, of Harris and McHenry's reports.

The state reports are now designated consecutively by numbers, but in earlier times were cited by the names of the reporters. A citation to some of these old reports is puzzling to even an experienced lawyer. An excellent solvent of these mysterious abbreviations is a book prepared by Charles C. Soule. Besides an accurate list of abbreviations, it contains a list of American and British statutes, reports and digests, with brief notes about many of them.

Other good lists of abbreviations are to be found in the first volume of Bouvier's Law Dictionary, Cooley's Brief Making and the Use of Law Books,

Ballentine's Law Dictionary, Vol. 16 of Corpus Juris, Vol. 1 of the second edition of the English and American Encyclopedia of Law, and Vol. 1 of Words and Phrases.

Hitherto mention was made of distinguished men who served as reporters of the Federal Courts, so it is but fair to name at least two for the States.

First, let us consider briefly the life of Judge Isaac Blackford, who reported eight volumes of the decisions of the Supreme Court of Indiana when that State was little more than a wilderness. He was born in Bound Brook, N. J., a town celebrated in history as the place where a battle was fought between the forces of General Lincoln and Lord Cornwallis during the Revolutionary War. Blackford entered Princeton College at the age of sixteen. There he excelled in Greek and Latin and obtained some knowledge of the Civil law. He became deeply interested in English history, and in his senior year showed a legal bent by reading Blackstone's Commentaries. After he was graduaed from Princeton he entered a law office in Somerville, N. J. Five years later, armed with letters of introduction to a Western judge, this young lawyer struck out afoot for some point on the Allegheny River, thence he floated down that river and the Ohio in a boat to the Indiana Territory. In 1812 he obtained, in the historic town of Vincennes, Ind., a license to practice law. While waiting for cases, he made a living by working in a bank and a newspaper office. In 1813, he became the first Clerk

and Recorder of the Territorial House of Representatives where he evidently made a good impression, for he was soon appointed Judge of the First Circuit of the Territory. He held that position until 1816. The following year he was elected to the Lower House of the State Legislature where he served as its first Speaker. The manner of his appointment as a justice of the Supreme Court of Indiana was remarkable, as shown by the following extract from a biographical sketch of Judge Blackford by William Wheeler Thornton in Lewis's Great American Lawyers, Vol. 3, page 189:

> "Indiana became a state December 11, 1816; and John Johnson, James Scott and Jesse L. Holman became the first judges of its Supreme Court. Within eight months there was a vacancy on this bench, caused by the death of Judge Johnson. At Johnson's funeral Governor Jennings quietly announced to Blackford his intention to appoint him to the vacancy created by Johnson's death. By this totally unexpected announcement Blackford was completely overcome for a while, even losing his voice, but upon regaining it he begged the governor not to appoint him, arguing his unfitness, his want of years, lack of experience and knowledge, and the superiority of several others whom he named. The governor refused to grant his request, and on September 10, 1817, he issued to him his commission."

At first Justice Blackford had little to do on the bench, for the pioneers of Indiana were too busy clearing and planting land and building homes to

engage in litigation. But despite the spaciousness of their surroundings it was not long before rights and interests began overlapping, and a path was beaten to the court. Five years after his appointment to the bench, Judge Blackford, realizing the necessity of publishing the reports of decisions, undertook the work that made him famous. Of this, Mr. Thornton says: "The care with which these reports were edited is an index to his characteristics as a judge. In order to improve his style, he read the best books. To be accurate, he searched the latest reports of the law, remodeling, as we have said, not only his own but also the opinions of his associates, until they became, as has been well said of them, 'Like his own: clear, compact, and complete, carrying no weight of immaterial discussions, and losing no weight through grammatical leaks or rhetorical cracks.' "

These reports from a state that was then out on the border of Western civilization were widely read. Of the first volume, Washington Irving, then Secretary of the American Legation at the Court of St. James, wrote: "I meet with it frequently; and am often asked as to the antecedents of its author, whose name is already quite familiar at Westminster."

Judge Blackford retired from the Supreme Bench in 1853, having served there for more than thirty-six years. In 1856 he was appointed judge of the United States Court of Claims. He died in 1859.

For our other example of an interesting state re-

porter, we will take Horace Gray, of Massachusetts. His life reminds us of the truth in Shakespeare's verse beginning with the line "Sweet are the uses of adversity," for he was the son of a wealthy man, and when traveling abroad after being graduated from Harvard University and hearing that his father's business enterprises had met with disaster, he immediately returned to his home in Boston and entered the Harvard Law School. There, as Senator Hoar said, "he threw himself into the study of law with an untiring industry begotten of deep enthusiasm. He soon took his place among the best scholars of the law school. After his admission to the bar, young Gray was temporarily appointed reporter of the Massachusetts Supreme Court. In that office he had the good fortune to hear the legal arguments of such men as Choate, Curtis, Bartlett, Allen and Loring; and when these and other great lawyers were arguing or were waiting to argue cases, Gray would often give them cases they had not discovered and that were 'pat' to the point." Senator Hoar said that "Even then his wonderful capacity for research, the instinct which, when some interesting question of law was up, would direct his thumb and finger to some obscure volume of English reports of law or equity was almost like the scent of a wild animal or bird of prey." When the court reporter died, Gray succeeded him. A few years later, at the age of thirty-six, he was appointed an Associate Justice of the Massachusetts Supreme Court. That was a very early age for so high a

judicial position; but you will remember that the late Chief Justice White topped even that record, having been an Associate Justice of the Supreme Court of Louisiana when only thirty-three. Justice Gray's first opinion as an Associate Justice of the Massachusetts Supreme Court (*Pomeroy v. Trimper,* 8 Allen, 398), has to do with the replevin of some live-stock. The writ described the animals as heifers, but in the certificate of appraisement they were referred to as cows. On this variance was hung a motion to dismiss the writ. In deciding this matter Justice Gray dug up from the Year Book of Henry VIII a case wherein the learned judge said: "The writ is good, for it may be that it was a heifer at the time of suing out the replevin, and that it is now a cow."

Judge Gray became an Associate Justice of the United States Supreme Court in 1882. The custom inaugurated by him of employing a young graduate of a law school as his law clerk is still followed by several of the Justices of the United States Supreme Court.

At the present time there are more than six thousand volumes of the state reports, and, of course, these are being added to at an increasing rate each year. Many of these reports come into the Law Library through the Copyright Office under Section 59 of the Copyright Act which says "That of the articles deposited in the copyright office under the provisions of the copyright laws of the United States and this act, the Librarian of Congress shall de-

termine what books and other articles shall be transferred to the permanent collections of the Library of Congress, including the Law Library, and what other books or articles shall be placed in the reserve collections of the Library of Congress for sale or exchange, or be transferred to other governmental libraries in the District of Columbia for use therein."

Among the volumes of the early state reports are those that come from the libraries of lawyers who pondered over them more than a century ago. Some of these old books have an added interest because of marginal notes made by their aforetime owners. In the olden days when there were no movies or autos or clubs to lure a man from his work and no staff of clerks and editors to separate the wheat from the chaff in the legal granaries, good lawyers did not consider it beneath their dignity to get physically acquainted with their books, and if need be improve them with their own brains and hands. The careless proof-readers of those days gave ample opportunity in this direction. Before a long list of "errata" in some of these volumes, the printer unblushingly adds, "The reader will please make the following corrections with his pen." In a volume of Haywood's North Carolina reports, printed in 1799, we find an index of cases carefully written with pen and ink and pasted in the front of the book. Not only did those pioneer American lawyers improve their books with their own brains and hands, but they even went further and made whole law

books. The most interesting of these are the ones published by Francis Xavier Martin. This son of France left his native land in 1780, when eighteen years of age, and after a stay in Martinique, came to North Carolina, where he settled in Newbern. While preparing himself for the bar he set type, published a newspaper, reported cases and translated French law books into English. In speaking of these translations and printings, Judge William Wirt Howe, in his biography of Martin, says: "In 1802 he published a translation of Pothier on Obligations, a book for which he had a profound respect; and at this time so complete was his skill as translator and typesetter, that in executing the work he used no manuscript, but rendered the French directly into English type in the composing stick." In a prefatory note to Martin's translation of Latch's King's Bench Reports, the translator says: "A desire of preventing the waste of a few leisure hours, alone, induced me to undertake the publication of these cases in modern language. Much credit could not be derived from it. I was not stimulated by the prospect of direct benefit; neither did I think myself better qualified, than any other person of the profession." But "he builded better than he knew." His industry and knowledge of French and law was not unnoticed, and he was given a judgeship in the then newly acquired Louisiana Territory. In 1812 his court went out of existence. Then he became Attorney General and still later Chief Justice of the Supreme Court of the State of Louisiana, holding

the latter office for more than thirty years. He reported many volumes of the decisions of that court.

In some of the early state reports will be found decisions of the Federal District and Circuit Courts. William W. Cooke, in his volume of Tennessee reports (1811-1814), prints a testimonial of approbation from Justice Todd, of the United States Supreme Court, some of whose Circuit Court decisions are found in that volume. In these old Tennessee reports are the opinions of Judge John Catron. "His utterances have all the fire and force of the Hebrew judges and prophets," said Henry H. Ingersoll in Lewis' Great American Lawyers, Vol. 4, page 254.

In another chapter we have referred to the lottery gambling, and in this connection a portion of one of Judge Catron's opinions is given here (*State v. Smith,* 2 Yerger's Reports, page 271). An act of Tennessee, passed in 1817, declared that any person convicted of gaming or betting upon any games of hazard or address should be disqualified to hold any office of trust or profit. Smith had been convicted of gaming by lottery and had been fined only five dollars. The Attorney General of Tennessee had moved for a writ of error on the ground that disqualification should be added. In the opinion delivered by Judge Catron in this case, he thus condemned the practice of gambling:

> "Like other passions which agitate the great mass of the community it lies dormant until once aroused, and then with the contagion of pesti-

lence, it sweeps morals, motives to honest pursuits and industry into the vortex of vice; unhinges the principles of religion and common honesty; the mind becomes ungovernable and is destroyed to all useful purposes; chances of successful gambling alone are looked to for prosperity in life, even for the daily means of subsistence; trembling anxiety for success in lotteries, at the faro bank or loo table, exclude all other thoughts. Expectation is disappointed; more losses are sustained; the highly excited desperate feelings are kindled by drunkenness, from which arises a wretch, with a recklessness and desolation of feeling, that the genius of a Shakespeare or a Milton could not, nor can any man, describe. Swindling, forgery, theft—every crime that extreme necessity and outcast desperation can suggest to a man, lost to all the moral ties, though guarded against, are likely shortly to follow in the train. We ask him who has known the world and ways of men as they are, not as they should be, are these not truths? Have you seen the poisoned arrow pierce the devoted victim? Have you seen him driven to desperation, and end his misery in self-destruction? Have you yourself felt the sting of this deadly poison? If you have known and felt these, you can, and do understand us. Who that has gambled much, and to excess, has not partly seen and felt in a thousand shapes the picture of misery here sketched, presenting instance of mental degredation and agony, melancholy as any with which offended heaven has ever permitted the mind of man to be afflicted? He who imagines this to be extravagant fancy has never sat at a loo table, dealing at ten dol-

> lars and forfeiting a hundred for perhaps a week together, or a half week, without sleep or ceasing to play. If he has when young, he will appreciate the feeling (should his head now be gray) that induces him to look back with awe upon the vices and misfortunes of his youth; he may be marked as the earnest advocate of highly penal statutes, to deter his son from similar outrages upon the laws of God, and the laws of this, and, we could hope, of every civilized land."

Judge Catron served on the Supreme Court of Tennessee from 1824 to 1836. He did not remain long idle, for in the list of attorneys admitted to practice before the United States Supreme Court at the January Term of 1837, printed in Vol. 11 of Peter's Reports, we find his name, and in the next volume of these reports we find it in the list of the Justices of that court. He served as an Associate Justice of the United States Supreme Court for 28 years, and took part in many notable cases, chief among them being the Dred Scott case.

What was said awhile ago about the improvement in the make-up of the volumes of the session laws in the last several years also applies to some of the volumes of reports of decisions in the State courts. As a sample of the tables that make a report more useful, let us take a volume of the reports of the New York Court of Appeals. First, there is a table of the cases reported in the volume. Following this is a table of the cases cited in the opinions in that volume. Let us suppose that a lawyer is

interested in the case of *American National Bank v. Sommerville,* 191 California, 364, and he learns that this case has been cited in some case before the New York Court of Appeals, but he does not know the title of the New York case. By turning to this table of cases cited he will find opposite the California case the page number of the New York case where the citation is made. Very frequently the volume and page of a leading case can more quickly be found in the table of cases cited than by looking through the regular table of cases. Then there is in this New York Court of Appeals reports a table of cases affected by decisions reported in the volume in hand. A lawyer might be interested in an opinion he has just read in a report of the Appellate Division, and is curious to know how the case fared in the Court of Appeals. By turning to this table of cases affected he quickly gets the desired information. There is also a table of cases distinguished, followed, approved, overruled, limited. It often happens that when lawyers meet out of their offices they fall to talking about recent court decisions. On such occasions, it may be easy for them to recall the name of the judge who wrote the opinion, but less easy to recall the title of the case. For such a situation a tabular list of opinions is helpful. In this New York report it follows the regular index and in it all the subjects considered in the opinions of the Chief Justice are grouped with references to the pages where they are to be found

in the report. Then follows a like arrangement of the subjects considered by each associate justice.

By simple methods some of the state reports have been made much more servicable for the hurried lawyer. For instance; let us say the lawyer is preparing a brief or arguing a case and is pressed for time. He has before him several volumes from which he is quoting parts of the opinions and must have the proper citation of the case, the year of the decision and the name of the judge who wrote the opinion. If he is reading from an old report or an unimproved new one he must turn the book over to find its number. If it happened to be an old and hand-worn book, such as is often found in some law libraries, the number on the back of the volume is likely to be indistinct. In such a case the lawyer must fumble about until he strikes the title page to get the volume number. Having obtained that information, he must look back from the page from which he is quoting to see on what page the case begins and onward, perhaps, to get the name of the judge. An up-to-date volume of reports saves this delay and annoyance and gives great aid to the rapid examination and quick citation of cases by having at the top of each page a brief title of the case, the year of the decision, the name of the judge and the number of the volume and the page on which the case begins. Here is a sample of the improved arrangement as shown in the report of the case of *Charles J. Liebman et al., Individually and as Stockholders of Auto Strop Company, Appellants, v. Auto Strop*

Company et al., Respondents, Volume 241 of the New York Court of Appeals, page 427:

	LIEBMAN *v.* AUTO STROP CO.	433
1926	Opinion per McLaughlin, J. [241 N. Y. 427]	

Also there has been a marked change in the arrangement of the head-notes of cases in the state reports. Some of them have the paragraphs of the syllabi numbered, and corresponding cut-in side notes in the body of the opinion, thus facilitating rapid search. In a few (for example, see those of Iowa) the use of catch-words or head-lines are employed with the head-notes, thus conveying to the searcher an idea of the subject of each paragraph of the syllabi. The value of the head-note is not to be estimated either by its physical make-up or its length. Its true office is to state briefly the proposition of law actually decided in the case, and if it fails to do this it does not deserve the title of head-note, however helpful it may be in furnishing the reader with suggestions. There is danger in placing too much reliance in head-notes. The best reporters sometimes make mistakes, and a seasoned lawyer, when he has the time, will use the head-notes mostly as a guide to that part of the opinion in which he is interested. Even where a judge writes the head-notes there may be danger of errors. In the case of *Burbank v. Ernst,* 232 U. S., page 162, Justice Holmes said, "Reliance also is placed upon the head-note of the decision, which states that the intent to

leave only temporarily is conclusively presumed to continue until the notarial procuration is recalled, and that the executors are concluded from asserting a change of domicile. But the head-note is given no special force by statute or rule of court, as in some States. It inaccurately represents the reasoning of the judgment. In 129 Lousiana it is said to have been made by the court. However that may be, we look to the opinion for the original and authentic statement of the grounds of decision."

Much severe criticism has been made of, and much good-natured fun poked at, the long suffering reporters. Here is a sample of what a wit would do to a head-note of a larceny case reported in England. Just how the offending head-note was really worded makes little difference; but to wring out a bit of humor it was twisted by someone to read like this: "Possession of trousers in Scotland evidence of larceny in England."

An old-fashioned lawyer might resent the statement, hitherto made, that the make-up of modern reports shows an improvement over the old ones. It some respects his resentment would be justified, for in the old reports there is found much interesting information, apart from the opinions of the court. For example, take Vol. 3, Bush (Ky., 1869), where is found, following the regular table of cases, two life expectancy tables; a table showing the value of a life-right in the income of $100.00; a table showing the value of a widow's dower in the income of $100.00. Following these are lists of the

names and addresses of the judges of most of the State courts, and a list of the Commonwealth attorneys. After the names of the Justices of the Court of Appeals there are those of the Reporter, Clerk, Deputy Clerk, Sergeant-at-Arms, Tipstaff and Janitor. We will state here that Bouvier defines a Tipstaff as "An officer appointed by the marshal of the court of king's bench, to attend upon the judges with a kind of rod or staff tipped with silver. In the United States, the court sometimes appoints an officer who is known by this name, whose duty it is to attend on the court. Similar officers employed in the courts of Pennsylvania are so called." There is a list in the Kentucky report giving the names of all the principal officers of the State. Such a list, we believe, would be a valuable addition to all the state reports.

When a lawyer wishes to find what specific legal points have been settled by the highest court of his State, he consults the digest. The arguments and opinions of the text writers are helpful, but they do not carry that comforting assurance found in a "case exactly in point." To get such a case quickly the lawyer must have a well arranged digest. Fortunately, with the growth of the state law reports, the art of digesting has developed greatly, and many of the states have good digests; but comparatively few of these digests are as serviceable as they should be. Denying in advance all charges of propaganda for that State, we turn again to New York for an illustration of what a good digest should be. There

we find "Abbott's Cyclopedic Digest of all the Decisions of all the Courts of New York from the Earliest Times." This work is kept to date by annual supplemental volumes. In the volume for 1926 is found, first, a table of cases affirmed, reversed, modified, etc., including all cases subsequent to those in a similar table of the 1925 annual. Let us say that a lawyer has in mind the case of Bailey v. Rutherford, 213 Appellate Division, 858. By turning to the table just mentioned, he finds the case in its alphabetical order, and opposite it the information that the opinion of the lower court had been modified by the Court of Appeals in 242 New York, page 220. Following that table is one of constitutions, statutes, rules, etc., cited in the reports embraced in the annual volume. The lawyer is now looking for a last word of the court on, let us say, an act of the New York Legislature of September 26, 1918. In this table the acts are arranged chronologically. Glancing down the column to the year 1918 he finds this act was passed upon by the highest court in Vol. 242 New York, page 300.

The cases are digested under the subjects alphabetically arranged, with cross references, when necessary, to other subjects. Citations are made to the volume or volumes containing the case. References are also made to notes in L. R. A., old and new series, and to A. L. R. In 1916, the publishers of this digest issued a volume containing a table of cases of all the New York reports between the years 1794 and 1912, showing, too, where these cases are

found in the digest and where they are annotated in L. R. A. This table of cases is continued throughout the annual supplements with citations to the case in the New York reports and, if it has been published in L. R. A. or A. L. R., to these reports also. In this table of cases in Abbott's Digest the names of both the plaintiff and defendant are given alphabetically. A table of cases should always be so arranged, for it sometimes happens that a lawyer can recall only the name of the defendant, and with a single indexed table he would waste much time in an effort to find his case. A work now being issued is Abbott's New York Digest, Consolidated Edition, carrying reported cases from the earliest time, and edited and compiled by the Lawyers' Co-operative Publishing Company and the West Publishing Company. This set has all the latest improvements, including the cumulative pocket parts.

How fine it would be for all the lawyers if for each State they should find a work like "Notes on New York Court of Appeals Cases," edited under the supervision of William Mack, editor-in-chief of Corpus Juris and "CYC." In these "Notes" the cases of the New York Court of Appeals are arranged chronologically, beginning with Vol. 1, N. Y., each case being followed by notes showing where the case has been referred to, or cited, or applied, etc., in subsequent decisions.

This brings us to one of the most important sets of books in the Law Library—Shepard's Citations. The publishers of this work, finding prose too dull

a thing to sing its praises, break rapturously into poetry, as shown by this sample recently printed in some of their advertising:

SAFETY

The channels of the law's delay
Grow worse and worse from day to day.
The lawyer works from dawn to dusk
To find a case in point. It must
When ascertained, be checked to know
What changes later cases show.
The courts' decrees, though heaven sent,
Each day upset some precedent.
Decisions rendered all the while,
Reports now published by the mile,
The lawyer finds, much to his sorrow,
What's good today is bad tomorrow.
The legislatures do their share
In passing new laws everywhere
On every subject 'neath the sun,
Their ceaseless efforts never done.
Thus follows as the night the day
The virtues of the Shepard way,
Where every case must correlate
Citation history, up to date.

These Shepard Citations come in flaming red covers, and stand out on the shelves in the Law Library as warning signals to the lawyer running down a decision. They signal that he is in danger of losing time if he attempts to get his citation in some other way than through Shepard. When a lawyer finds a case in point with his own, and wishes to know at once whether it has been affirmed, reversed, modified, harmonized or questioned by some

higher court, he turns to Shepard's Citations. The report volume numbers are shown in bold type; the case is indicated by the page number; beneath the case number are set down the volume and page numbers wherein the case is cited. Further information is furnished by the employment of smaller numbers, letters and symbols. The paragraph of the syllabi treated in the original case is shown by a small (called superior) number, a small "a" before the volume number means that the case has been affirmed on appeal; a capital "D," that an appeal was dismissed; a small "o" that the case has been overruled, and so on. Besides the Federal and State reports, the Shepard Citations cover the Federal and State constitutions, statutes and session laws; the Interstate Commerce Commission, Treasury and Internal Revenue Decisions, Land Decisions, Customs Appeals Reports, Patent Cases and the Opinions of the Attorney General. There are Shepard Citations of the District of Columbia Appeals Reports and to the Official Gazette subsequent to 1909. Beginning with Vol. 258 of the Federal Reporter, Shepard covers the District of Columbia Court of Appeals reports along with other Federal courts.

The publishers of these citations say that in using them there are seven important points to be observed, viz:

> "1. Select the reported decision in point with your case, or the reported decision announcing the principle you wish to investigate.
>
> "2. Select the paragraph of the syllabi of

that reported decision containing the principle applicable to the matter before you.

"3. In the cumulative supplement or bound volume, depending upon how the investigator wishes to proceed, of the jurisdiction from whence the case comes, locate the volume of reports on the upper outside corner of the page.

"4. Then search through the columns for the heavy black typed figures which indicate the page of the reports on which the decision is reported.

"5. The citations following the black type figures on the left side indicate the volume, and those to the right, the page of the decision citing the case under investigation.

"6. Note the small superior number to the left of the page number of the citing case that corresponds to the number of the syllabi of the case under investigation.

"7. After examining all the cases in the supplement, then go to the permanent volumes and proceed in the same manner."

It is somewhat surprising to see a reader in the Law Library wasting time because of his inability to use these citations. He knows it is a valuable help; but, just because it can accomplish so much, he gets the idea that it is too complicated for him to manage, and stands in as much awe of it as a man does of an automobile that he is about to learn to drive. The trouble with this reader is that he gets confused in trying to learn the use of these Shepard Citations all at once. To him the figures and symbols scattered over a page are as bewildering as the

starter, switches, accelerator, choke, emergency brake, etc., to the embryonic driver. He should always be sure that he knows what these numbers and symbols mean; just as the automobile driver should be sure to know the automobile parts mentioned. If he does not, he might lose his case, and with bitterness recall this epitaph over the grave of a careless driver:

> "Here lie the remains of William Drake.
> Speak softly as you pass.
> He thought his foot was on the brake,
> But it was on the gas."

There is really nothing complicated about Shepard's Citations, if properly approached. Let us take a simple case to illustrate some of its uses. Suppose we are reading the case of *Frost v. Thompson,* 219 Mass., page 360, and wish to get decisions on the subject of voluntary common-law trusts formed for the purpose of carrying on a business for profit, and not deriving any powers or benefits from statutory regulations. First, we find that the principle is treated in paragraph one of the syllabi of this case. Going to the Shepard's Massachusetts Citations, Vol. 2, we turn the pages until we reach the one where "219" is printed at the upper outside corner. There we stop for the case in which we are interested is in 219 Massachusetts. The page before us is divided into seven columns. We look down these columns until we find "360," the page number of the Massachusetts case. Beneath this 360 we find two parallel columns of numbers in smaller type. Those in the left column are the volume numbers

and those in the right column are the page numbers of the cases in which this case of *Frost v. Thompson* has been cited. The arrangement of these columns is like this:

—360—	
s106	NE1009
219	[3]570
d223	[6]157
223	[5]603
227	[1]565
230	[7]456
232	[1]294
233	[1]333

The "s106NE1009" means that this case of *Frost v. Thompson* is also found in Vol. 106 North Eastern Reporter, page 1009.

We know that the paragraph of the syllabi in which we are interested is No. 1; therefore, we keep our eyes open for this superior number 1 to the left of the page number. When we get down to 227 [1]565 we have our first citation. That 227 means, of course, Vol. 227 Mass.; the 565 means the citation is at page 565 of that report, and the small number 1 to the left of this 565 means that the principle in paragraph 1 of the syllabi, that is, the one in which we are interested, is treated there. A little further down the column we strike another. That is, of course, 232 Mass., page 294. Now we are beginning to realize the value of that superior number. Already it has saved us looking at several cases wherein this *Frost v. Thompson* case was cited, but where the particular point in which we are interested was not discussed. Going down the column we pick up

five more Massachusetts cases in point. Then we strike

265US[1]1147
68LE[1]1953
44SC[1]1463

This means that the principle we are studying has been passed upon by the United States Supreme Court in a case which we can find in three different editions of the Supreme Court reports, that is, either in Vol. 265 of the official edition, or in 68 of the Lawyers' Edition, or in 44 of the Supreme Court Reporter.

Having ended our search in the bound volume, we turn to the last Shepard's Citations Supplement for Massachusetts, where we find:

—360—
256Mas.[5]23
1928AS1590
277US[1]548
72LE[1]983
48SC[1]579

We are thus put in touch with the very latest cases; one so late that it is cited in the Massachusetts Advance Sheets—"1928AS"—the other a United States Supreme Court case.

To obtain the latest and most vital citations a subscriber to Shepard should be sure to heed the request printed on the outside cover of each supplement.

Another feature of Shepard's Citations is the Classified Topical Index for the United States Supreme Court Reports and many of the States, published in permanent volumes and kept to date by supplements. To illustrate some of its uses, let us suppose we are in doubt as to what is a right fee

to charge for our legal services, and wish to quickly get decisions on that subject. By turning to the Classified Topical Index for our State we find beneath the appropriate title—Attorney and Client—numbered section lines. Looking down the page we find "§ 139 Value of Services," and beneath this "§ 140—In General." Below this is a list of cases in point decided by our State's highest court from the earliest times down to date. To obtain cases and authorities of other jurisdictions on the same subject, we could do so quickly by turning to the American Digest, for the subject and number used in Shepard's Classified Topical Index correspond to the subject and key number of West's American Digest System.

A companion work is Shepard's Tables of Cases, in permanent volume and up-to-date supplement. In these tables we are referred to the classification of each case in the Classified Topical Index where the respective points are summarized. For instance, suppose we wish to obtain some Pennsylvania decisions on the value of legal services, and do not just know where to look for them in the Classified Topical Index. We do know, however, of one case dealing with our subject—let us say the case of *Commonwealth v. Bank.* In Shepard's Table of Cases for Pennsylvania we find "Commonwealth v. Bank, 268 Pa. 526; Atty. & C. § 140." So, for Pennsylvania cases we look in the Pennsylvania Classified Topical Index; for all other jurisdictions, in the American Digest System, under the subject Attorney and Client and section or key-number 140.

CHAPTER IV

Reporter System—Selected Cases—Encyclopedias

The increasing number of citations of State decisions during the last one hundred and thirty years is marked. With the view of illustrating this point the writer took from the Connecticut alcove a copy of Kirby's reports, and found written on the fly-leaf in dim penciling the following bit of information: "The first book of American reports publish(ed) in the U. States." Whose hand guided the pencil, we are unable to say. Perhaps that of some New England lawyer full of pride in the possession of his new law book. "Where be his quiddities now, his quillets, his cases, his tenures, and his tricks?" To corroborate the penciled statement we turned to the Lawyer's Reference Manual of Law Books and Citations, by Charles C. Soule, and found the following note: "Kirby is the earliest (in point of publication) of the American Reports, and was published before any statute had been passed in regard to reporting it; but it was recognized by the legislature, which directed the purchase of three hundred and fifty copies for distribution in the towns. Its preface quaintly sets forth the need of preserving, by publication, the decisions of the American courts."

This book of decisions was printed by Collier and Adam, in Litchfield, in the year 1789, the title page reading, "Reports of cases adjudged in the Superior

Court of the State of Connecticut from the year 1785 to May, 1788; with some determinations in the Supreme Court of Errors. By Ephriam Kirby, Esquire."

A cursory glance through this venerable volume discloses a very light sprinkling of English citations only. Our next move was to compare these few citations with those in a late volume of the Connecticut reports. A glance through the table of cases cited in this volume showed citations to the courts of thirty-seven States.

The effect that the growth of our transportation facilities has had upon the citation of state reports is shown in the lengthening of these tables of cases cited. In the year 1830 there were only twenty-three miles of railway in the United States—about the present length of the City of Philadelphia. Back in the days of the California "gold rush" a lawyer of the Pacific Coast occasionally surprised his opponent by citing a "late" case that had come to him by water, rail and stage-coach from some eastern state. Today the states are joined by a net-work of steel rails and good roads. Our total railway mileage would span this continent from the Atlantic to the Pacific about one hundred times; and a table of cases cited in a late California report shows citations of the courts of thirty-four states. This meeting of the minds of the judges and lawyers, and a growing desire to get well-reasoned cases—it mattered not what state court they came from—at last brought about a new system of reporting. It

was in the eighties when the West Publishing Company began publishing the decisions of the highest courts of a small group of states. To this group others were added until all of the states were included. These groups—the Atlantic, Northeastern, Northwestern, Southeastern, Southern, Southwestern and Pacific, together with the Supreme Court Reporter, the Federal Reporter and the New York Supplement, make up the National Reporter System. In Cooley's "Brief Making and the Use of Law Books," 4th Edition, published by the West Publishing Company, we find the following information as to just what volumes of the State Reports are covered by the National Reporter System:

"The Northeastern Reporter reports in full every decision of the courts of last resort of five states since 1885. It contains the State Reports from and after—

Vol. 114 Ill. (Sup. Ct.),	p. 1	Vol. 139 Mass.,	p. 1
102 Ind. (Sup. Ct.),	p. 1	99 N. Y.,	p. 1
1 Ind. App. (App. Ct.),	p. 1	43 Ohio St.,	p. 1

"Pacific Reporter reports in full every decision of the courts of last resort of thirteen states since 1883. It contains the State Reports from and after—

Vol. 1 Ariz.,	p. 1	Vol. 17 Nev.,	p. 1
64 Cal. Sup.,	p. 1	3 N. M.,	p. 1
1 Cal. App.,	p. 1	1 Okl. Sup.,	p. 1
7 Colo. Sup.,	p. 1	1 Okl. Cr. App.,	p. 1
1 Colo. App.,	p. 1	11 Or.,	p. 1
2 Idaho,	p. 1	3 Utah,	p. 1
30 Kan. Sup.,	p. 1	1 Wash. St.,	p. 1
1 Kan. App.,	p. 1	2 Wash. Ter.,	p. 1
4 Mont.,	p. 1	3 Wyo.,	p. 1

"The Northwestern Reporter reports in full every decision of the courts of last resort of seven states since 1879. It contains the State Reports from and after—

Vol. 1 Dak.,	p. 1	Vol. 1 Neb. Com'rs' Dec.,	p. 1
51 Iowa,	p. 1	1 N. D.,	p. 1
41 Mich.,	p. 1	1 S. D.,	p. 1
26 Minn.,	p. 1	46 Wis.,	p. 1
8 Neb.,	p. 294		

"The Atlantic Reporter reports in full every decision of the courts of last resort of nine states since 1885. It contains the State Reports from and after—

Vol. 53 Conn.,	p. 1	Vol. 47 N. J. Law,	p. 349
5 Del. Ch., 7 Houst		40 N. J. Eq.,	p. 345
77 Me.,	p. 408	110 Pa. St.,	p. 1
64 Md.,	p. 1	15 R. I.,	p. 1
63 N. H.,	p. 446	58 Vt.,	p. 1

"The Southwestern Reporter reports in full every decision of the courts of last resort of five states since 1886, and all the decisions of the Indian Territory. It contains the State Reports from and after—

Vol. 47 Ark.,	p. 1	Vol. 85 Tenn.,	p. 1
84 Ky.,	p. 1	66 Tex.,	p. 1
1 Ind. Ter.,	p. 1	21 Tex. App.,	p. 1
89 Mo. Sup.,	p. 1	1 Tex. Civ. App.,	p. 1
94 Mo. App., (also part of Vol. 93)	p. 1	31 Tex. Cr. R.,	p. 1

"The Southern Reporter reports in full every decision of the courts of last resort of four states since 1887. It contains the State Reports from and after—

Vol. 81 Ala.,	p. 1	Vol. 39 La. An.,	p. 1
1 Ala. App.,	p. 1	64 Miss.,	p. 1
23 Fla.,	p. 1		

"The Southeastern Reporter reports in full every decision of the courts of last resort of five states since 1887. It contains the State Reports from and after—

Vol. 79 Ga.,	p. 1	Vol. 26 S. C.,	p. 1
1 Ga. App.,	p. 1	82 Va.,	p. 964
96 N. C.,	p. 1	29 W. Va.,	p. 1

"The New York Supplement was founded in 1888. It contains every existing series of reports of the New York lower courts, containing every lower court decision published by them, and thousands not included in any of them, from and after—

Vol. 23 Abb. N. C.		Vol. 1 Mills' Sur.,	p. 1
1 App. Div.,	p. 1*	14 Daly,	p. 497
14 Civ. Proc.		48 Hun,	p. 304
1 Civ. Proc. Repts., New Series,	p. 1	1 Misc. Rep.,	p. 1
1 Bradbury's Pleading and Prac. Repts.,	p. 1	6 N. Y. Cr. R.	
		56 N. Y. Super. Ct.,	p. 1
		1 Silvernail,	p. 1
6 Dem. Sur.,	p. 413	1 N. Y. Anno. Cas.	
1 Con. Sur.,	p. 1	1 N. Y. Leading Cases Anno.,	p. 1
1 Gibbons' Sur.,	p. 1		
1 Power's Sur.,	p. 1		

* Supreme Court."

Before the coming of the National Reporter System, a lawyer had to wait years before getting a printed copy of a court decision; and sometimes he never got them at all. Through this system of reporting these vexatious delays vanished. Today when an opinion is rendered, a staff of West Publishing Company experts takes charge of it. Carefully prepared head-notes, with key-numbers that hook the opinion up, through the American Digest, with all other like cases, are published in the ad-

vance sheets shortly after the opinion is delivered. A little later the opinion is published in a bound volume that is issued long before many of the official volumes. When all the reported cases reported in a given volume of the National Reporter System have been published in the state report, the West Publishing Company issues a sheet showing where the cases in the Reporter System volumes may be found in the state reports. From time to time a volume, called the "Blue Book," is published for each group of the reporter system, which gives the National Reporter citation for cases cited from the state reports. This information is also to be found in the blue pages in the back of the National Reporter System reports.

With the National Reporter System is the American Digest, consisting of four sets of books. First, there are fifty volumes in the set known as the Century Digest, covering cases from the year 1658 to 1896. Next comes the Decennial Digest, in twenty-five volumes, for cases between 1896 and 1906. From 1906 to 1916 the Second Decennial covers all cases of that period in twenty-three volumes. The Third Decennial, just completed, digests all reported cases from 1916 to 1926. Annual supplemental volumes and monthly pamphlets keep this set to date.

With the Decennial Digest came the "key-number" system. Let us follow a lawyer as he uses the digest in running down a case that has to do with fellow servants on a vessel. He has in mind the case of *Hollis v. Widener,* found in 228 Pennsylvania

State Report, page 466. In the Table of Cases of the American Digest, he finds this case is also reported in Vol. 77 of the Atlantic Reporter, page 819. There, in one of the head-notes he finds "Master and Servant—Fellow Servant" and a reference to section 200 of the subject "Master and Servant" in the Decennial Digest. In the First, Second and Third Decennial, under the this same subject and key-number, he finds many cases in point in the State and lower federal courts, one in the United States Supreme Court, and one in the American Reports and in Annotated Cases.

Almost every day a reader in the Law Library has to find an elusive case. At times he has only a very small clue to work on. He does not know in what court, or in what year the case was decided. It might have been in a Federal court or in a court of any of the forty-eight States. It might have been decided last year or a hundred years ago. Not a very encouraging prospect. However, if the searcher is sure of the name of the plaintiff in the case, he can run his case down in the Tables of Cases in the American Digest. The last five volumes of the First Decennial and the 24th volume of the Second Decennial are devoted to tables of cases which cover cases reported from 1658 to 1916. The Table of Cases published with the Third Decennial covers cases digested during the period from 1916 to 1926, and shows where they have been reported in the National Reporter System, the State reports and other standard sets. The key-

number section under which each point in the case has been digested is also given. With these Tables of Cases in Volumes 21 to 25 of the Decennial, Volume 24 of the Second Decennial and the one with the Third Decennial, together with the supplemental volumes and monthly issues, a reader can find any case digested from the year 1658 to the date of the latest decisions.

At times a case is cited by its popular name instead of its title—for instance, the *Recapture Clause Case* instead of *Dayton-Goose Creek Co. v. U. S.* To meet this emergency there is a table of Popular Name Titles in the front part of the Third Decennial Digest Table of Cases.

A further help is found in the fact that with the title of the case there is given the subject discussed. For example, the case of *Stone v. Lewis* is given thus:

> "Stone v. Lewis, 215 Mass. 594, 104 N. E. 284, 50 L. R. A. (N. S.) 471, Anno. Cas. 1914D 591, Land. & Ten. 167 (1, 8) 170 (1)."

This shows the case deals with the subject of Landlord and Tenant. In this way, too, the reader is directed to four places where he can find the case reported—in the State report, the National Reporter System, Lawyers' Reports Annotated (New Series) and Annotated Cases. The value of these citations to L. R. A. and Annotated Cases will be realized when we get to the subject of Selected Cases.

For each group of the National Reporter there are digests. With the digest of all subjects dealt

with in any case there is a key-number connecting them with the American Digest. For example, where a reader is consulting in the Southern Reporter Digest the subject of Landlord and Tenant—Injuries to Third Persons and Their Property, key-number 167, he finds there only digests of cases in the courts of Alabama, Louisiana, Florida and Mississippi. If he wishes to extend his search to the courts of all the other States of the Union and also Federal courts, he takes this key-number (167) and going to the American Digest, finds under the same subject and key-number all cases in point. Volumes containing only tables of cases have been issued for each of the following groups of the Reporter System —Northeastern, Northwestern, Pacific and Southeastern. Vol. 12 of the Northeastern Digest contains a Table of Cases for Vols. 1 to 40, covering the period from 1879 to 1922; Vol. 10 of the Pacific Reporter contains a Table of Cases from Vol. 1 to 120, from the year 1883 to 1912; Vol. 11 of the Southeastern has a Table of Cases covering Vols. 1 to 125, from the year 1887 to 1924. These tables of cases, covering as they do many years of reports, are of great assistance.

To know how to find a reported case quickly is of the utmost importance at times. It is easy enough to find a case through a complete table of cases; but, if such a table is not available, the lawyer must be resourceful enough to find his case in some other way. For example, we will say that a lawyer is in a great hurry to find the case of *Stendal v. Boyd.* He

knows the case is reported in some volume of the Minnesota reports. The only Minnesota table of cases he can find is many years old and he does not find the case there. The resourceful lawyer without a moment's hesitation turns to Vol. 12 of the Northwestern Digest which contains, as hitherto mentioned, a table covering a long period of years, and there he finds his case. But the citation there is to Vol. 75 Northwestern Reporter page 735. That is not enough, for he wishes to get the case in the state report. By consulting the sheet "State Report Citations" pasted on the inside front cover of Vol. 75 Northwestern, he finds the case citation to the state reports. But suppose he had been unable to find this Vol. 75 Northwestern on the shelf. In that case he would turn to Shepard's Citations and under the citations for that volume and page of the Northwestern Reporter he finds that the same case was reported in Vol. 73 Minnesota Reports, page 53.

We find in the Law Library that it requires a little practice with all the books of the National Reporter System to use them to the best advantage; so let us take another case to further illustrate. We will say that Mr. Blank is the owner of a dilapidated building in which he operates a shooting gallery. He rents the building to Mr. Jones who continues this business. On one side of the rented premises is a pathway used by the public. Because of the flimsiness of the walls of the shooting gallery, a bullet, deflected by an iron target, passes through the wall, striking Mr. Thomas as he walks along

this pathway. Mr. Thomas suffers long from the injury, loses much time from his work and has a large hospital bill to pay. Naturally he feels that the party responsible for all this should be made to pay for it. Therefore, he consults his lawyer, Mr. Aubrey. This accident, we will say, happened in the State of Massachusetts, where Mr. Aubrey had practiced law for many years. While Mr. Aubrey is listening to his client's tale of woe, he is trying to fit the present case with one with which he is familiar. The one that he recalls that most nearly approaches it is the case of *Stone v. Lewis,* reported in 215 Mass., page 594. The head-note of this case reads as follows:

> "The owner of a building, which is constructed without any provision for artificial light, who has let it to a tenant under a lease giving the tenant control of the halls and stairways and providing that repairs shall be made by the tenant, is not liable to a subtenant, or by one coming by rightful invitation to a room hired by such subtenant, for personal injuries from falling down a staircase by reason of the darkness of a hallway in the building."

The outstanding points here are "Negligence of one in control of real estate. Nuisance. Landlord and Tenant."

Now, Mr. Aubrey wishes to get all the legal light possible on these points. To do so in the easiest way he takes the Blue Book of the Northeastern Reporter, and turning to the table of Massachusetts cases, he finds under Vol. 215 Mass., Stone v. Lewis

(104 N. E. 284). Turning to this case in the Northeastern Reporter, Mr. Aubrey finds the first headnote as follows:

> "1. Landlord and Tenant (§§ 167, 170)—Landlord's Liability for Dangerous Condition—Extent. A landlord, who has given entire control of premises to a lessee, is liable for damage or nuisance only when the use from which it necessarily ensues was plainly contemplated by the lessee."

He then turns to the American Digest, Decennial Edition, and in Vol. 12, under the subject Landlord and Tenant, sections Nos. 167, 170, he finds among many other helpful notes, the following:

> "(Mass.)
>
> "The rule is that the occupier, and not the landlord, is bound, as between himself and the public, so far to keep buildings in repair that they may be safe for the public; but if the landlord is bound by express agreement with the tenant to repair, the party injured by a defect or want of repair may have his action against the landlord in the first instance, to avoid circuity of action—(1849) *City of Lowell v. Spaulding,* 58 Mass. (4 Cush.) 277, 50 Am. Dec. 775; (1858) *City of Boston v. Worthington,* 76 Mass. (10 Gray) 496, 71 Am. Dec. 678; (1859) *Kirby v. Boylston Market Ass'n,* 80 Mass. (14 Gray) 249, 74 Am. Dec. 682; (1864) *Inhabitants of Milford v. Holbrook,* 91 Mass. (9 Allen) 17, 85 Am. Dec. 735."

On reading this the lawyer can give a great sigh of satisfaction. We will know why when we take up

the books known as Selected Cases a little further on.

Next, Mr. Aubrey consults Vol. 14 of the 2nd Decennial Edition of the Digest, covering the period between 1907 and 1916, where, under the same subject heading and key-numbers, he finds other cases in point. Then he turns to the Third Decennial Digest and finds under the same subject and key-number 170(4) a case squarely in point, the note reading as follows:

"(Utah)

"An action for the loss of an eye, caused by a stray bullet from an improperly guarded shooting gallery, against defendant landlord, who leased the premises with such nuisance existing, *held* that such motions for nonsuit and directed verdict for defendant were properly denied.—*Larson v. Calder Park Co.*, 180 Pa. 599.

"Where plaintiff sued for personal injuries resulting from being struck by a bullet glancing from an improperly guarded gallery, while on a passageway in defendant landlord's park, which gallery and park were being operated by a tenant, it was immaterial whether defendant landlord intended such passageway to be used as a path, where it was shown conclusively that it had been so used for some time, and it was proper to refuse a requested instruction as to defendant's intention.—Id."

The name of Justice Shaw, who wrote the opinion of that Massachusetts case, *City of Lowell v. Spaulding,* was one to conjure with. The series of

the Massachusetts reports begins with the year Lemuel Shaw was admitted to the bar of the State, and from the year 1830 and for thirty years thereafter, his name appears in these reports as Chief Justice. He was born in an old-fashioned parsonage in the little village of West Barnstable, Mass., January 9, 1781. It was a fine place for a boy to grow up. The ocean was about a mile away; great sand-dunes stretched invitingly along the beach; creeks and a land-locked harbor were there for boating. These attractions kept young Shaw out in the open, and helped build a rugged constitution. Twice each year he had the pleasure of seeing the procession of scarlet robed and white wigged Judges of the Supreme Court, with their out-riders and headed by the High Sheriff, pass on its way to the not far distant court house. It may be that this imposing caravan implanted in the lad's mind thoughts of himself becoming a judge. He worked hard at his lessons, and was graduated from Harvard before he reached the age of twenty. A little later he entered the office of a young barrister where he prepared himself for the bar, and was admitted to practice when he was twenty-three. Like Chief Justice Marshall, Shaw lost the first case he argued before the court over which he was later to preside for nearly a third of a century. Like Marshall, too, he did not let this defeat discourage him. It is said that his practice in 1830 yielded something like $20,000, a very large income for a lawyer of that period. In 1830, Chief Justice Parker, of the Supreme Court of Massa-

chusetts, died, and Shaw was named by the Governor to succeed him. Whether he should retain his lucrative practice or give it up and take on instead the heavy burden of a Chief Justiceship was a hard question for the successful lawyer to decide. As with all problems presented to him, Mr. Shaw gave it the most serious thought, as shown by the following memorandum made by him at the time and later published in the Memoir by his son, Samuel S. Shaw:

"MEMORANDUM

"Whether I shall accept the appointment of Judge.

"Against it—

"I shall in some measure sacrifice ease and independence; it will be more laborious. I shall lose something in part of present emolument. I shall be more absent from my family at a time when my presence might be useful to my children. I shall miss the opportunity of traveling, of making tours and journeys, and be confined principally to the pale of the Commonwealth.

"In favor—

"Although I shall have a good deal of labor, I do not know that it is more irksome—in many respects is less so—than that of the bar. There will be considerable intervals of leisure. Although the emolument will not be so great as that which I have been receiving, yet is regular, permanent and secure.

"At fifty the labors of the bar begin to become irksome, and many a man who has in early

life enjoyed a full practice is apt to decline after that period.

"The situation is a highly honorable and useful one, which, if the duties of it are ably and acceptably discharged, will lay the foundation of an honorable lasting name.

"The above 'if' is with me the great cause of apprehension and alarm.

"Upon this I confess I am influenced more by the judgment of others than by my own. I am conscious that I cannot thus discharge the duties; they assure me that I can. I have only one consolation, that I have often thought the same in regard to other arduous undertakings and yet upon trial have found my strength equal to the occasion. If I undertake this great office, God grant it may be so here."

Fortunately this good man finally decided to accept the office. In arriving at the right decision, he may have been assisted by the persuasive argument of Daniel Webster; for we are told that when he was inclined to refuse the appointment, Webster went to him and urged him powerfully to delay a final conclusion.

How nobly Chief Justice Shaw discharged the duties of his office for some thirty years is best shown by quoting Justice Thomas, one of his colleagues on the bench:

"With the largest sense of equity, he was the servant of the law he was set to administer, and obeyed its mandate. With the most generous love of freedom and hatred of oppression, he stood unflinchingly by the Constitution he had

sworn to support. With the soundest judgment, with masterly powers of reasoning, and, in discussion, with a subtlety of logic seldom equaled, he had literally no pride of opinion, but retained to the last the docility of a childhood,—the ever open and receptive waiting spirit, into which wisdom loves to come and take up its abode. With a stern sense of justice, he had the tenderness of a woman; and while the magistrate pronounced the dread sentence of the law, the man was convulsed with grief and sympathy.

"With a firm trust in God, with a constant sense of His presence, looking to Him for guidance and support, nothing could move him from the path of duty. He stood in his place, and the billows broke at his feet."

To show the use of another book that goes with the American Digest, let us say that a man working in a factory has had his hand injured by unguarded machinery and asks Mr. Aubrey for legal advice. Now Mr. Aubrey knows of no reported case from which to get a start for his search in the American Digest. He knows that he will find cases in point under "Master and Servant," but as there are more than two thousand pages of the Digest devoted to that subject, he turns elsewhere to get a start. This he finds in a book called "Descriptive Word Index." In it the subjects are arranged alphabetically in columns. Below these subject titles are suggestive words, also alphabetically arranged. Turning to the subject Master and Servant, and running down the suggestive word column, Mr. Aubrey finds "Guarding Dangerous Machinery" with reference to key-

number 121, which unlocks, as explained before, any number of cases in point, both early and late.

As a last demonstration of Mr. Aubrey's ability to use the American Digest, we will say that he has been consulted about a drilling contract by Mr. Jones, who owns land near an oil field. Mr. Jones says the contract seems fair enough to him, but he thinks Mr. Aubrey had better look it over. By the terms of the contract, the driller undertook to drill the well to a certain depth, "the drilling to be done in a good workman-like manner, or no pay." Mr. Aubrey asks Mr. Jones if he expected the driller to place the well in a good condition for permanent preservation, that is, to place a packer or tubing in the well and remove salt water, if there be any, for the price named in the contract. To this question, Mr. Jones replys that he did—that he believed those words, "the drilling to be done in a good workman-like manner" would cover all that. Mr. Aubrey is not so sure about this. He turns to "Words and Phrases" in Vol. 23 of the 2d Decennial Edition of the American Digest, and under the phrase "Drill an oil well in a good and workman-like manner" he gets a citation to the case of *Collier v. Munger* (1907) 89 Pacific 1011, 75 Kan. 550. The head-notes for the case in the Pacific Reporter are as follows:

> "1. Mines and Minerals—Oil and Gas Contract—Construction. The language of an oil and gas contract will be given its ordinary and commonly understood meaning where no reason appears for doing otherwise.

"2. Same—Payment of Consideration. A contract to drill an oil and gas well contained a provision which reads: 'The second party agrees to drill one well for oil or gas, * * * and go to the Mississippi lime rock, unless a good quantity of oil or gas is struck, or otherwise at the option of the first party. Second party agrees to do the drilling in good workman-like manner, or no pay. First party agrees to give * * * one dollar per foot for drilling, provided that it is done in good workman-like manner.' Held, that the second party was entitled to the contract price for drilling the well when he reached the Mississippi limestone, if the work was done in a good workman-like manner.

"3. Same. To drill a well in good and workman-like manner does not include placing it in a complete condition for permanent preservation, by placing therein a packer and tubing and removing salt water therefrom."

With this light on the subject, Mr. Aubrey changes the wording of the contract so as to leave no room for doubt as to what the driller should do to get his money. "Words and Phrases" are found in Vol. 20 of the Decennial Edition and in Vol. 23 of the 2d Decennial Edition and in the supplemental volumes of the American Digest.

Not only the state reports, but also the Supreme Court Reporter and the Federal Reporter, first and second series, and West's United States Compiled Statutes are keyed up to the American Digest.

When cases may be found so easily, a lawyer has to guard against using too many of them. An argu-

ment or brief overloaded with citations needlessly worries the court. When tempted to cite all the cases in point, the lawyer may remember the story of the cub reporter on a newspaper who had been assigned a political meeting out in the country with instructions that his story was not to exceed more than five thousand words. Impressed by the gathering, the reporter asked his paper for more space, saying the meeting could not be reported in five thousand words. In reply to this the editor wired: "Cannot allow you more space for the political meeting." Then as a rebuke, or perhaps to give the reporter confidence, the editor added: "The story of the creation of the world was told in eight hundred words."

Justice Samuel F. Miller said, "The convincing power of the opinion or decision in a reported case must depend very largely on the force of the reasoning by which it is supported, and of this every lawyer and every court must of necessity be his own judge."

Fortunately, this necessity to be the judge of a case has been removed, at least to a very great extent. More than fifty years ago the need of selecting the best reasoned opinions on all subjects, out of the great mass of cases that had been decided in our courts up to that time, was realized; and to supply this need there have come from time to time collections of selected cases. A set of such cases, known as "American Decisions" covers in its one hundred volumes a period from the organization of our courts in this country down to the year 1869. Following

this is a sixty-volume set called "American Reports," containing cases from 1870 to 1887. American Decisions and American Reports have been recently reprinted from the original plates on thin paper, thus condensing the one hundred and sixty volumes to eighty. Notes or extra annotations, in twenty volumes, of the American Decisions and Reports were issued a few years ago showing official citations of these cases.

Next come "American State Reports" in one hundred and forty volumes, covering the period between 1886 and 1911.

A book entitled "Index-Digest to the Monographic Notes," by Edmund S. Green, published by the Bancroft-Whitney Company, in 1912, is used advantageously with the American State Reports. All the subjects treated in the one hundred and forty volumes of these reports are alphabetically arranged in this small book and they direct the lawyer not only to leading cases but also to monographic notes that amount to exhaustive treatises in spite of their brevity.

With the American State Reports is a digest in three regular and two supplemental volumes, compiled by Edmund S. Green, and published in 1904 by Bancroft-Whitney Company. From the preface of Vol. 1 of this set we find that "By permission of the West Publishing Company each title is preceded by a scope note taken verbatim from their classification scheme, showing what branch of the law is treated thereunder. The syllabi are arranged and

classified according to the system followed by the West Publishing Company in the preparation of the American Digest, because it is the only system of digesting in general use, and familiar to the mass of the legal profession."

Vol. 3 of this American State Reports digest contains a Table of Cases Digested showing where the case is found in the state report and in the American State Reports. If a lawyer is reading a case in a state report and wishes to see if the case is in the American State Reports, where he might find valuable notes, he consults this table of cases.

In front of Vols. 1, 4 and 5 of this digest are "Schedules" showing in what volumes of the American State Reports the cases reported in the several volumes of the official reports may be found.

The American State Reports are followed by American and English Annotated Cases, with cases from 1904 to 1918, and a digest in two volumes. Next is "The Lawyers' Reports Annotated, Extra Annotated Edition of 1913," in 70 volumes, published in 1915 and covering the period from 1888 to 1905. This is followed by Lawyers' Reports Annotated, New Series, with cases from 1906 to 1914, in 52 volumes. From 1914 these reports are unnumbered but have instead the year date. This set ends with volume 1918F. These reports are cited "L.R.A." and "L.R.A.(N.S.)."

The last of these annotated reports is American Law Reports, cited as A. L. R. It is published by the Lawyers Co-operative Publishing Company, the

Edward Thompson Company and the Bancroft-Whitney Company. The first volume was published in 1919, and it carries on L. R. A., discontinued in 1918, and also American and English Annotated Cases, at this time jointly published by Bancroft-Whitney and Edward Thompson Company, the former publishing the American State Reports, which publication was discontinued when the publishers became associated. The American Law Reports contain fundamentally important decisions of the Federal and State courts of last resort. These cases are carefully analyzed and compared and an exhaustive treatment of the principles and their applications is worked out by experts.

On any matter, other than purely local statutory matter, these reports furnish the best cases and excellent notes. When a lawyer has found a case in point, in any Federal or State report, published subsequent to 1919, he turns to the table of cases in the digest of the American Law Reports to see whether it has been published in that set of reports. If it has, he will usually find notes that amount to a good brief. If further cases are desired, he turns to the American Law Reports Blue Book, which brings the annotations of the case down to date. The first digest of this work covers Vols. 1 to 27, from 1919 to 1923. This is followed by a cumulative index-digest for the years 1924 to 1926, Vols. 28 to 45, which is kept up to date by a temporary cumulative index-digest with Blue Book appendix of supplemental decisions. The editors of American Law Reports have had many

years of experience in this kind of work. One of them, Mr. Henry P. Farnham, is the author of the oft consulted treatise, "The Law of Waters and Water Rights." Another, whose name is familiar to almost every lawyer, is Mr. C. B. Labatt, the author of Labatt's Master and Servant.

Our Mr. Aubrey, when looking up authorities on the question of a landlord's liability for damages done to a man injured by a bullet from a shooting-gallery, found in the American Digest, among many other citations, one to 85 American Decisions, page 753. In the 1911 Extra Annotated Edition of the American Decisions, where this case is reported, are found numerous valuable notes and references to cases in American and English Annotated Cases, American Reports, Lawyers' Reports Annotated, old and new series, American State Reports and English Ruling Cases. With access to these reports, a lawyer very quickly gathers material for a good brief. In them he finds only the very best cases on the subject—cases that have been weighed, tested and carefully selected by experienced law editors out of a great mass of decisions.

At times, Shepard's Citations are used advantageously with these collected cases reports. For example, suppose a lawyer is reading a case in a State report—say the case of State v. Randolph, 23 Oregon, page 74, and wishes to get all the best cases in point. By turning to Shepard's Citations for Oregon, he finds under Vol. 23, page 74, that this case was also reported in the American State Reports

and Lawyers' Reports Annotated. In addition to this information, Shepard shows that the case has been cited in several other cases in the Lawyers' Reports Annotated and in the American State Reports. Thus the lawyer is quickly put in touch with many selected cases in point.

An important book furnished with L. R. A. is one bound in bright red, so as not to be overlooked, and labelled "Desk Book—Complete Index of All L. R. A. Notes." With this volume the reader is put in touch with all the annotations of L. R. A. By looking into this Desk Book at the beginning of a search, he often finds just what he needs and is spared a longer and more laborious investigation through the Digest. Perhaps the most exhaustive note on one subject, in any set of reports is that on the Rule in Shelley's Case in Vol. 29 L. R. A. (N. S.), page 693, covering 206 pages.

There is a ten-volume "Complete Digest" for L. R. A., covering both series, published in 1921. The subjects, arranged alphabetically, and their minor divisions, are marked by section numbers. Vol. 10 of this set bears on its back a red strip with the words: "IMPORTANT—ALWAYS BEGIN HERE." This book not only indexes all topics of law, such as "Torts" or "Remedies," etc., but it also gives the name of every imaginable thing that might in some way be connected with the legal subject. For instance, if a lawyer has a case growing out of an automobilist's negligence in passing another vehicle, he turns to the subject "Automobile," and running

down the list of suggestive words he finds—"Passing other vehicles, negligence." Following this is a reference to sections in the "Complete Digest" and in the "Desk Book," which in turn lead to these rules, doctrines and principles that have been relied upon in L. R. A. decisions.

When a reader enters the Law Library to work out some knotty legal problem, there comes to him a feeling of relief when he sees the set of books known as "Ruling Case Law." The dedication in its first volume is significant, reading as follows:

> "To the great judges of the past and the present upon whose decisions this work is founded."

This popular work, published in 1914 by the Edward Thompson Company, Bancroft-Whitney Company and the Lawyers Co-operative Publishing Company, is developed and established by the decisions and annotations in these and other series of selected cases—Lawyers' Reports Annotated, American Decisions, American Reports, American State Reports, American and English Annotated Cases, American Annotated Cases, English Ruling Cases, British Ruling Cases, United States Supreme Court Reports.

There are twenty-eight handy-sized volumes in the set. It would be hard to give a better description of Ruling Case Law than that found in the publishers' foreword, reading as follows:

> "This work possesses a dual character. It is at once a digest of particular reports and a

compendium of the entire body of the law. As a digest it departs from the usual form, but none the less completely covers the law as enunciated in the decisions contained in the several series of selected cases listed on the title page. As a compendium it presents, in the form of articles alphabetically arranged, a rounded text which embraces, within the limits of the authorities cited, the entire field of our law.

"The work is founded primarily on those leading decisions which, by a process of judicial and editorial selection, have been winnowed from the whole mass as ruling cases. The annotations appended to these cases—representing as they do a vast amount of editorial research of the highest class, covering by exhaustive review of the authorities a multitude of large and small topics, and possessing the confidence of the bench and bar as witnessed by the citation of them in the reports—have also been availed of in stating the law. These annotations are not only indexed and referred to in connection with each text proposition to which they pertain, but are often summarized in a manner which helpfully supports and expands the statements of the doctrines and holdings of the reported cases.

"Decisions from the reports of the United States Supreme Court have been liberally cited in the titles where federal law is supreme or predominates, such as Constitutional Law, Commerce, Bankruptcy, Patents, Trade Marks, etc. Upon other topics the decisions of this great court have been used when, in the opinion of the editors, the selected cases might be usefully supplemented by them.

"The publishers responsible for this work believe that by uniting their selected case properties for the purpose of this undertaking they will render a new and important service to the legal profession. In their judgment the time is at hand when the continued accumulation of precedents of widely varying quality and authority, and the volume of case law now possessed by each jurisdiction available for the solution of ordinary and local questions, have made it necessary to adopt new means in any effort to cover comprehensively the entire field of law.

"Law books have been aptly described as bricks and mortar. In the building of Ruling Case Law the bricks used are of a quality which every test has pronounced unsurpassed. If judgment and skill have been shown in assembling them and in applying the mortar, a task necessarily committed to many persons, the work will prove to be the useful structure which the design contemplates."

The last volume of Ruling Case Law was issued in 1921. Since that date there have been published six supplemental volumes bringing the articles in the regular set down to July, 1926, thereby covering the cases and annotations contained in the several volumes of the various series of annotated reports published after the original articles were written. For example, take our case of the liability of the landlord for damages resulting from a stray shot from an improperly constructed shooting gallery leased by him. Section 594 of the subject of Land-

lord and Tenant in Vol. 16 of Ruling Case Law reads in part as follows:

> "* * * The theory upon which the landlord is held to be liable where the premises are leased with a nuisance is that he created the nuisance, and will be presumed to have intended the continuance thereof, or that he acquired title with an existing nuisance and knowingly leased them in that condition. In either case the act of leasing with the nuisance is held to raise the presumption that he intended the nuisance to be continued.[19]"

The footnote, 19, cites Vol. 50 Lawyers' Reports Annotated (New Series), page 287. There, in a note on "Liability of landlord to third person for condition of premises in possession of tenant," we find numerous annotations and citations of leading cases, among them Judge Shaw's case of the *City of Lowell v. Spaulding,* 4 Cush. 277. Now, the volume of Ruling Case Law in which the subject of Landlord and Tenant is treated was published in 1917. To find later selected cases on the subject, we go to Vol. 3 of the Ruling Case Law Supplement where, under this same section 594, we find the case of Larson v. Calder's Park Company, 180 Pacific Reporter, 602, 4 American Law Reports, 731, per Weber, J., quoting Ruling Case Law, section 594. This Vol. 3 of Ruling Case Law Supplement takes us down to the year 1922. To bring our search nearer to date we consult Vol. 4 of the supplement, published in 1923, but find there were no selected cases on that section 594. In Vol. 5 of the supplement,

published in 1925, under the same section, we find "Responsibility of One Leasing Premises with Nuisance Thereon Causing Injury to Third Person. —*Bixby v. Thurber,* 80 N. H. 411, 118 Atl. 99, 29 A. L. R., 175 and notes. This American Law Report citation gives excellent notes. Going still further we find in Vol. 6 of the Supplement, published in 1926, under this same section 594, two Federal cases on the subject. It is interesting to note that in both of these cases the judge cites Ruling Case Law. Our search may be brought to date through the use of the supplemental volumes. A set known as "Permanent Supplement," now being published, has a pocket inside the back cover of each volume for the cumulative supplement, thus keeping Ruling Case Law up to date within covers.

The value of a search through Ruling Case Law lies in the fact that we are put in touch with "those leading decisions, which, by a process of judicial and editorial selection, have been winnowed from the whole mass" of cases dealing with the subject in which we are interested.

The following excerpt from a letter written by Mr. Justice Samuel F. Miller, of the United States Supreme Court, in reply to a letter addressed to him by Judge John F. Dillon, published in Vol. 10 of the Virginia Law Journal, page 582, is interesting in connection with the subject of selected cases:

> "As regards the relative weight to be given to the different courts whose decisions are relied on, it is more difficult to speak. I shall say

nothing of the value of the decisions of the English courts in question purely of common law or in equity. Not because I underrate them, but because every one understands their value, especially in equity and admiralty cases.

"Leaving these, and the questions arising under state statutes, the value of a decision is estimated by the character of the court, or of the judge who delivered the opinion, or by both. These vary much in the courts of the United States. Without being invidious, or undertaking to name other courts of high standing, there are many things in the history and character of the Supreme Judicial Court of Massachusetts which entitle its reported decision for the last hundred years to great consideration.

"But a decision often has merit apart from the standing of the court in which it is made, owing to the high character of the judges of the court, or of the judge who delivered the opinion. Opinions delivered by such judges as Marshall, Taney, Kent and Shaw have a value apart from the courts in which they were delivered. Even the dissenting opinions of these men, and their *obiter dicta,* have weight in the minds of lawyers who have a just estimate of their character, which they cannot give to many courts of last resort of acknowledged ability."

Justice Miller closed his letter with the quoted paragraph on page 135 of this book.

A portrait of Mr. Justice Miller hangs on the walls of the Law Library. He did not sit in this room when the Supreme Court occupied it, having been appointed to the bench three years after that tribunal moved to its present quarters upstairs.

Like so many of our great men, Justice Miller came from hardy pioneer stock. He was born in Richmond County, Kentucky, in the year 1816. Abraham Lincoln, seven years old at this time, was leaving that state, on the road that led to the White House. Miller's father, a German farmer, emigrated to Kentucky from Berks County, Pennsylvania; his mother had come from North Carolina. His early years were spent on a farm; and although he had but little schooling, like Abraham Lincoln, he had a thirst for knowledge. When about twelve years old he began attending school at Richmond, Kentucky, working the while on his father's farm. At fifteen he got a clerkship in a drug store and became so much interested in medicine that he later entered the medical school of Transylvania University at Lexington, now the University of Kentucky, from which he was graduated as a physician at the age of twenty. As a country doctor, forced to take long horseback journeys through that wild, rugged country he probably often fell in with circuit-riding judges and lawyers. Just how this young physician happened to become a lawyer is told by Horace Stern, in Lewis's Great American Lawyers, in these words:

> "It happened that his office was shared by a lawyer and Miller occasionally read his associate's law books and became interested in the profession. At first he did this only sporadically and furtively, because he was afraid that his medical practice would suffer if it should become known that he was devoting himself to

> other studies; afterwards, however, he took up the work more systematically and fearlessly, with a view of being admitted to the bar. That he was gifted as a debater was proved to his own satisfaction by his efforts as a member of the village debating society, where the questions of the day—and weighty questions they were—were discussed, and here Miller's power of quick comprehension and wonderfully logical mind caused him to shine among some who later—then members of this same society—attained high political position. In 1847 he was admitted to the bar, and was thus in his thirty-first year, married and the father of two children, when he entered upon the practice of the law."

Doctor Miller developed into a good lawyer, and practiced for a time in his native state. Because he believed in the abolition of slavery he left Kentucky and went to Iowa where he set his slaves free. In 1862 there were two vacancies on the bench of the United States Supreme Court, and to fill one of these President Lincoln appointed Mr. Miller. He took his seat in December of that year. As a member of this court, Mr. Justice Miller took part in the decisions of many interesting cases, some of the most important being the Legal Tender and Slaughter-House cases. He died October 13, 1890, having served twenty-eight years as a member of our highest tribunal.

Of Mr. Justice Miller's character and judgment, Mr. Stern wrote:

> "He was the kind of a man who could, if he desired, readily make friends; in his sociable

humors he was companionable, a good conversationalist, full of reminiscences and anecdotes, and with a broad sense of humor. He had a strong and dominating will, and clung to his opinions with great tenacity. His frankness was his most prominent trait,—a frankness that was not only tactless but sometimes bordered on the brutal. He hated shams and subterfuges of all kinds and had no patience with even the lighter forms of social hypocrisy. That he was intensely truthful, honest and incorruptible is beyond question; his integrity was never in the slightest impeached. Although inclined to be modest in the more personal phases of his nature, he was self-confident to an extreme degree; he acted according to his convictions with a profound indifference to the thoughts or actions of others. Perhaps it is not too harsh a criticism to say that his firm belief in the correctness of his opinions approached the vice of stubbornness. Fortunately his judgments were usually right."

Today, when specializing is more the vogue than formerly, the lawyer turns with satisfaction to what are referred to in the Law Library as the collected cases. These consist of sets of books containing cases on a given subject. Among them are American Bankruptcy Reports (M. Bender, 1899), and another (cited Am. B. R. (N. S.)) begun in 1924, whose new feature consists of a cumulative table of references to Collier on Bankruptcy. With these reports there is a digest. American Criminal Reports (Callaghan and Company, 1878), contain criminal cases decided in the United States, Eng-

land, Scotland, Ireland and Canada. For the problems arising under the Federal tax laws, there are decisions of the Federal and State courts in the set of Federal Tax Reports (Prentice-Hall, 1924). Unabridged reports of the opinions of any importance of Federal and state courts are found in this compilation. As the reprints of the Federal decisions have been made from the original plates of the Federal Reporter, accuracy is assured, and the key-number system made available. The admiralty lawyer finds assistance in Maritime Cases (Emory H. Niles and Arnold W. Knauth, 1923). For the "air-minded" reader there is the "United States Aviation Reports," published by the United States Aviation Reports, Inc., Baltimore. Flying over the "trackless wastes of official and unofficial reports and statutes," the editors of this work located and captured judicial and administrative decisions, federal and State statutes, and federal regulations, and bound them in a single volume, which will be supplemented by advance sheets and later volumes. American Railway Cases (Little, Brown and Company, 1862) and American and English Railroad Cases, new series (Edward Thompson Company, 1895), deal with railroads in this country, England and Canada. A digest for this set was published by Michie in 1899. The decisions of the Public Service Commissions and associated state and Federal decisions are found in Public Utility Reports Annotated (Lawyers Co-operative Publishing Company, 1915). These are kept up to date through periodical

supplements. A digest for these public utility reports adds greatly to their value. American Negligence Cases (Remick, Schilling and Company, 1895-1914), fill seventeen volumes. There is a digest for this set also (Callaghan and Company, 1914). American Negligence Reports, Current Series (Remick, Schilling and Company, 1897-1910), in twenty-one volumes, contain negligence cases decided in the Federal courts, the courts of last resort of all the states and territories and selections from the intermediate courts and also notes of English cases and annotations. A key-word index to the notes in the American Negligence Reports (Callaghan and Company, 1914) is a small but useful volume. Negligence and Compensation Cases Annotated (Callaghan and Company, 1912), deal with workmen's compensation, employers' liability and negligence cases in the United States, England and Canada. Among these collected cases there is a British publication of importance, the set being known as Commercial Cases (Times Publishing Company, 1896). Another British set, valued by lawyers representing authors or publishers, is Macgillivray Copyright Reports (The Publishers Association, London, 1905).

Encyclopedias are of great importance in the Law Library. Some deal with only one subject, as the Encyclopedia of Evidence, published by L. D. Powell Company, in 1902, and the eighteen-volume work known as Forms and Precedents for Pleading and Practice, by James Cockcroft, 1896.

The American and English Encyclopedia of Law,

Second Edition (Edward Thompson Company, 1896), in thirty-two volumes, covers the field of substantive law and evidence. With this set there are five supplemental volumes. Following this is "The Encyclopedia of Pleading and Practice," published by Edward Thompson Company, in twenty-three regular (1895-1902) and four supplemental (1903-1909) volumes. This valuable work covers pleading and practice, under the codes and practice acts, at common law, in equity and in criminal cases.

Because of the great development of corporation practice in the last several years, Fletcher's Cyclopedia of the Law of Private Corporations, published by Callaghan and Company (1917), is frequently consulted by readers in the Law Library. This work is in nine regular volumes and a cumulative supplement (1927). Every branch of the law of Private Corporations seems to have been covered by Mr. Fletcher and his large staff of corporation specialists. There are numerous notes and citations on almost every page, the case citations being alphabetically arranged by States so the reader can easily pick up cases of his own court. There are also parallel references to the National Reporter System, Lawyers' Reports Annotated, American Reports, American Decisions, American State Reports, Annotated Cases and American Law Reports.

Shelved with this work is Fletcher's Corporation Forms and Precedents (Callaghan and Company, 1913), in one volume, containing a very complete collection of practical corporation forms used in the

various states. To these have been added other forms used by large corporations, that have been drawn up or passed upon by eminent corporation counsel. Under an alphabetical arrangement by States, the reader can find forms of application for charters, certificates, specific object clauses, general object clauses, by-laws, acknowledgments, etc. Altogether there are more than two thousand forms in this book. A supplemental volume (1923) brings down to that date the State forms, with revisions and additions made necessary by changes in the laws. Many practical forms of a general character are also included. A second edition (1928) of Fletcher's Corporation Forms and Precedents (same publishers) in one volume, is now in the Law Library.

The Cyclopedia of Law and Procedure, better known as Cyc, published by the American Law Book Company, fills several shelves, and somewhere in its forty large volumes, dealing with substantive and adjective law, the lawyer usually finds what he is looking for.

The subjects in Cyc are arranged alphabetically, and throughout the text on each page are generous sprinklings of numbers referring the reader to footnotes and citations. The case citations are by States in alphabetical arrangement, making the reader feel at home on seeing cases of his own courts. In addition to the treatises on legal subjects, we find defined in Cyc, words, phrases and maxims, with citations to authorities for such definitions.

The first volume of Cyc was published in 1901; the last volume in 1912. To keep the work up to date, the publishers have issued several supplemental volumes containing annotations and citations to subsequent cases, thus showing any changes resulting from modifications or reversals of opinions. As the supplemental volumes cite cases in the National Reporter System and the selected series reports, the reader is able to find through this interlocking system the latest and best annotations of cases.

Corpus Juris carries on for Cyc and in time will supplant it in an improved arrangement of text and annotations, its purpose being, as its editors announce in the preface of the work, to afford "a consistent and correlated statement of the whole law without duplication in one set of books, relatively few in number." In its physical construction also Corpus Juris is an improvement, the volumes being of good appearance and convenient size. A page of Corpus Juris contains about a hundred per cent more matter than one of Cyc. A table printed in the first volume of Corpus Juris furnishes an interesting comparison of the number of text propositions and authorities in these two works. It shows that on the fifteen articles or treatises in Vol. 1 of Corpus Juris there were 14,761 text propositions in Corpus Juris to 5,165 in Cyc; and 84,848 authorities cited in Corpus Juris to 28,550 in Cyc.

The reader will recall that when Mr. Aubrey was consulted by a man wounded by a deflected bullet,

he was told that the building whence the shot came had been used as a shooting-gallery by the owner of the building and that it had been leased by the owner to one who continued to carry on the business. This naturally suggested to Mr. Aubrey the subject of Landlord and Tenant. Now, if he had used Cyc or Corpus Juris, he would probably have gone into the investigation of the subject about like this: In Cyc he would find the subject Landlord and Tenant in Vol. 24. Turning to the skeleton analysis at the head of that subject he would find under the main subdivision No. VII, the line "Premises and enjoyment and use thereof," and reference to page 853. At the page indicated, under a subhead, lettered E, he would find "Injuries from Dangerous or Defective Conditions," and below this, under a further sub-division marked with the number 2, "Injuries to Third Persons," with a reference to page 1124. There he would find the following:

"2. Injuries to Third Persons.

a. Duties of Landlord and Tenant to Third Persons.

The general rule is that where there is neither privity of estate nor privity of contract the landlord is not liable for injuries sustained by third persons, unless by invitation, express or implied, he induces them to come upon the premises. In such cases the liability of the landlord is not contractual, but bases upon some breach of duty. It must be shown that he has done or

omitted to do some act which from his legal relations to the property constituted a breach of duty to third persons resorting thereto in the course of business, or upon his invitation, express or implied, to keep the premises in a reasonably safe condition, regardless of the question as to whose duty, as between landlord and tenant, it is to make repairs thereon.

b. Defective or Dangerous Condition of Premises.

Where, however, the injuries to a third person are due to the faulty or defective construction of the premises,[93] or because of a continuing nuisance thereon,[94] or where the landlord retains control over the premises, or the part thereof where the injury occurred, such as a passageway or elevator, the landlord is liable for such injuries.[95] The lessor of property is not liable for damages to a third party resulting from the use to which the tenant may put the leased property where no nuisance existed on such property at the beginning of the lease, unless it be shown that at the time the lease was made he knew the uses and purposes to which the tenant would apply it, and that such use from its very nature would prove to be a nuisance."[96]

The footnotes referred to by the numbers throughout the text contain among other citations the cases

of *Kirby v. Boylston Market Association,* 14 Gray 249, 74 American Decisions, 682, and *Gordon v. Cummings,* 9 L. R. A., and in this way, as we have hitherto shown, Mr. Aubrey is put in touch with leading cases in point.

This volume 24 of Cyc was published in 1907. In extending his search on the points covered by the notes, Mr. Aubrey would have examined the Cumulative Annotation volumes where, under the subject Landlord and Tenant and the same page and note numbers, he would have found later cases in point. There are two important books of annotations, the first being Corpus Juris—Permanent Annotations, 1921—the other Corpus Juris—Cyc Service—Second Permanent Annotations—1922-1926. These are followed by annual volumes.

On the title page of each volume of Corpus Juris is found this significant quotation:

> "The law is progressive and expansive, adapting itself to the new relations and interests which are constantly springing up in the progress of society. But this progress must be by analogy to what is already settled." Greene, C. J. in 1 R. I., 356.

The last volume of Corpus Juris received in the Law Library is number 46, covering Neutrality Laws to Partida.

The subject Landlord and Tenant is in Vols. 35 and 36. To find the Corpus Juris treatment of the subject contained in the notes quoted from Cyc we would turn to the Cyc—Corpus Juris Parallel Ref-

erence Table in Vol. 36 of Corpus Juris, page xv. This table translates Cyc citations into Corpus Juris citations by means of a triple column of figures, the two to the left standing for the page and note in Cyc, and the one to the right for the section in Corpus Juris. We find our section in Corpus Juris reading as follows:

> "[§ 950] bb. Buildings. A landlord who demises a building, which at the time of the letting is in a dangerous and defective condition, will be liable to a stranger who is injured by reason of such defects.[73] An owner of such a building will likewise be liable under such circumstances even if he did not construct or procure the construction of the building, if he could by reasonable diligence have discovered the nuisance.[74] Furthermore, it has been held that, where, after letting, an owner authorizes the erection, by a tenant, of a building, to be erected according to plans to be approved by the owner, and for which he is to pay, the latter is liable for injuries arising from a nuisance thereby created, even though construction was under the direction of the tenant." [75]

Another section, right to the point, reads in part as follows:

> "[949] (b) Where premises are rented in a bad state of repair, the landlord is liable to third persons for injuries resulting therefrom,[59] and will be liable to a stranger for injuries sustained by him, by reason of the defective condition of premises in the possession of a tenant, where at the time of the letting, there existed a nuisance on such premises by reason

> of the defective or dangerous construction of a building thereon,[60] or of parts used in appurtenances thereon; [61] or where the manner of construction of the building[62] or other parts of the premises would in all probability lead to the creation of a nuisance." [63]

The numbers in the text are to the footnotes and citations of cases reported in the State reports, the National Reporter System and the selected cases series. As with Cyc, to find later cases in point we would consult the Cumulative Corpus Juris-Cyc Annotations.

The publishers of Corpus Juris furnish a very interesting and helpful wall chart, that is really a good working index of the standard law titles under these seven grand divisions—Persons, Property, Contracts, Torts, Crimes, Remedies and Government. This Law Chart is also found at page viii, in a volume entitled Quick Search Manual, issued in 1928 by the publishers of Corpus Juris. With this grouping of all related titles, the lawyer is able to compare and discriminate in selecting the right title; and through the Quick Search Manual is directed to his volume and section of Corpus Juris without loss of time.

Beginning with Vol. 3 of Corpus Juris, there are portraits of outstanding men of the legal profession. Very appropriately this series of portraits begins with one of Chief Justice Marshall. In Vol. 4 is Chief Justice Taney; Vol. 5, Sir William Blackstone; Vol. 6, James Kent; Vol. 7, Associate Jus-

tice Story; Vol. 8, Lemuel Shaw, Chief Justice of Massachusetts, 1830-1860; Vol. 9, Chief Justices Luther Swift Dixon and Edward George Ryan, of Wisconsin; Vol. 10, Chief Justice Melville W. Fuller; Vol. 11, W. H. Beatty, Chief Justice of California, 1888-1914; Vol. 12, Thomas Ruffin, Chief Justice of North Carolina, 1833-1852; Vol. 13, Thomas M. Cooley, jurist, law writer and teacher of Michigan; Vol. 14, Associate Justice Samuel F. Miller, of the United States Supreme Court; Vol. 14A, Justice D. Corson, of South Dakota, 1889-1913; Vol. 15, John B. Gibson, Chief Justice of Pennsylvania, 1816-1853; Vol. 16, John B. Minor, Dean of the law teaching profession of the South, University of Virginia, 1845-1895; Vol. 17, John Scholfield, Justice and Chief Justice of Illinois, 1873-1893; Vol. 18, Samuel Maxwell, Justice and Chief Justice of Nebraska, 1873-1894; Vol. 19, R. C. Brickell, Chief Justice of Alabama, 1874-1884, 1894-1898; Vol. 20, John W. Slayton, Justice and Chief Justice of Texas, 1881-1894; Vol. 21, William Mitchell, Justice of Minnesota, 1881-1899 (Justice Mitchell is the father of the present United States Attorney General); Vol. 22, Simon Greenleaf, author of the work on Evidence, pioneer of the great American writers on Evidence; Vol. 23, W. L. Sharkey, Chief Justice of Mississippi, 1832-1850; Vol. 24, F. X. Martin, Judge and Presiding Judge of Louisiana, 1815-1846; Vol. 25, Edward Douglass White, Justice and Chief Justice of the United States Supreme Court, 1894-1910-1921; Vol. 26, Rufus P. Ranney, Justice and

Chief Justice of Ohio, 1851-1856, 1862-1864; Vol. 27, U. M. Rose, of Arkansas, President of the American Bar Association, 1901-1902, one of the great American lawyers; Vol. 28, Moses Hallett, Chief Justice of Colorado, 1866-1876, United States District Judge, 1877-1906; Vol. 29, William Barclay Napton, Justice and Chief Justice of Missouri, 1839-1862, 1873-1880, and William Scott, Justice and Chief Justice of Missouri, 1841-1862; Vol. 30, Horace H. Lurton, Chief Justice of Tennessee, 1903, Associate Justice of the United States Supreme Court, 1910-1914; Vol. 31, Isaac Blackford, Justice and Chief Justice of Indiana, 1817-1853; Vol. 32, Mercer Beasley, Chief Justice of New Jersey, 1864-1897; Vol. 33, Henry McIver, Justice and Chief Justice of South Carolina, 1877-1891, 1891-1903; Vol. 34, S. M. Harrington, L.L.D., Chancellor of the State of Delaware; Vol. 35, Logan E. Bleckley, Justice and Chief Justice of Georgia, 1857-1880, 1887-1894; Vol. 36, David J. Brewer, Justice, of Kansas, 1871-1884, United States District Judge, 1884-1889, Justice of the United States Supreme Court, 1889-1910; Vol. 37, George Robertson, Justice and Chief Justice of Kentucky, 1829-1843, 1864-1871; Vol. 38, John Marshall Harlan, Associate Justice of the United States Supreme Court, 1877-1911; Vol. 39, Edward Blake, Premier of Ontario, 1871-1872, Minister of Justice, 1875-1877, Minister of the Judiciary Committee of the Privy Council, 1896; Vol. 40, W. A. Blount, President of the American Bar Association, 1920-1921; Vol. 31, Henry Brannon, for thirty years a

judge of a West Virginia Court of Record, Circuit Court Bench, 1881-1888, Supreme Bench, 1889-1912; Vol. 42, W. P. Lord, Chief Justice of the Oregon Supreme Court, 1880-1882; Vol. 43, John F. Dillon, author of "Commentaries on the Law of Municipal Corporations," President of the American Bar Association, 1891-1892; formerly United States Circuit Judge, and Chief Justice of the Supreme Court of Iowa; Vol. 44, John A. Peters, Justice and Chief Justice of Maine, 1873-1883, 1883-1900; Vol. 45, Theo. Brantly, Chief Justice of Montana, 1899-1922; Vol. 46, Charles N. Potter, Justice or Chief of Supreme Court of Wyoming, 1895-1927.

The questions might be asked, Why are these portraits in a set of practical law books; why bother about them or where they are to be found? The reader, if he is an experienced lawyer knows why. He knows that a successful lawyer is usually a lover of history and delights in the contemplation of the wise men who help make it. Lawyers love to recall the likenesses of their brothers who have blazed honored names along the road leading to that "divine far off event toward which all creation moves."

Shelved near the encyclopedias we find a good collection of legal dictionaries. Among these Bouvier's and Black's are prime favorites. Of the first there is an edition of 1883, an edition of 1897, both in two volumes, and an edition of 1914, in three volumes. All of these are the revisions of Francis Rawle, of the Philadelphia Bar. In Vol. 1 of the last mentioned edition, under the word abbreviations,

follow nearly seventy pages of abbreviations of common use.

It is interesting to note that John Bouvier, who defined so well our English words and phrases, was himself a native of France, having come to America in 1802, when fifteen years of age. He was brought up in the City of Philadelphia. In 1822 he began the practice of law in that city, and sixteen years later became associate judge of the Court of Criminal Sessions. One of his greatest works is "The Institutes of American Law."

One edition of Black's dictionary was published in 1891; the other in 1910, by the West Publishing Company. In addition to definitions of terms and phrases, there is a collection of legal maxims and a table of abbreviations.

Among other good dictionaries are those of Tayler, (1865); Abbott, in two volumes, (1879); Sweet, (1882); Rapalje, in two volumes, (1883); Browne, (1883); Anderson, (1889); Kinney, for students, (1893); Shumaker, (1901); Stroud, in three volumes, (1903); Mozley and Whiteley, (1908); Ballentine, (1916); Wharton, (1916); and Pope, in two volumes, (1920).

A law dictionary is not despised because of its age. Sometimes a long search for an elusive word ends successfully in an old dictionary.

For the lawyer looking for the legal definition of a word or phrase, there is "Words and Phrases" (West Publishing Company), in three series, the

first in eight volumes, 1904; the second in four volumes, 1914; the third in seven volumes, 1928.

The reader may recall this delightful dialogue between Humpty Dumpty and Alice in "Through the Looking Glass":

> " 'When *I* use a word,' said Humpty Dumpty, in rather a scornful tone, 'it means just what I choose it to mean, neither more nor less.'
>
> " 'The question is,' said Alice, 'whether you *can* make words mean so many different things?'
>
> " 'The question is,' said Humpty Dumpty, 'which is to be the master? That's all.' "

Lacking this remarkable power over words, the lawyer is willing to have the court be the master and say what the word means; and this work, Words and Phrases, exactly fills his needs. Definitions of legal words and phrases are brought down to date in the American Digest.

A lawyer must be careful in choosing his words, as shown by the following quotation from an opinion by Justice Holmes in the case of *Towne v. Eisner,* 245 U. S. 418:

> "A word is not a crystal, transparent and unchanged, it is the skin of a living thought and may vary greatly in color and content according to the circumstances and the time in which it is used."

CHAPTER V

Text-books—Legal Periodicals

In an address to the Law Department of the University of Pennsylvania, Mr. Justice Bradley, Associate Justice of the United States Supreme Court, 1870-1892, said: "In order to be an accomplished lawyer, it is necessary, besides having a knowledge of law, to be an accomplished man, graced at least with a general knowledge of history, of science, of philosophy, of the useful arts, of the modes of business, and of everything that concerns the well being and intercourse of men in society. He ought to be a man of large understanding; he must be a man of large acquirements and rich in general information; for he is a priest of the law, which is the bond and support of civil society, and which extends to and regulates every relation of one man to another in that society, and every transaction that takes place in it."

However accomplished a lawyer be, it is not always possible for him to recall those things he would wish to make use of in his argument before the court. Because of this, there are kept in the Law Library good dictionaries and general reference books. Of the former, there are Funk and Wagnalls' Standard Dictionary, Webster's New International Dictionary (G. and C. Merriam Company) and the Century Dictionary. There is also a set of

the New International Encyclopedia with supplemental year books.

The lawyer looking for some elusive line of poetry or prose turns to Bartlett's Familiar Quotations; if the pronunciation of some word worries him, Phyfe's Twelve Thousand Words Often Mispronounced sets him right; to recall the name of some old English judge, he consults the list in Foss's Biographical Dictionary of the Judges of England, covering the period from the year 1066 to 1870; if it be a far back Attorney General or Solicitor General of England, he gets it in Foss's Tabulæ Curiales, as it deals with the Superior Courts of Westminster Hall from about the year 1066 to 1864; for the names of Judges, Counsellors and Solicitors, Notaries and Conveyancers of England of the present day, he turns to the Law List; for those of Scotland, there is the Scottish Law List; for Canada, the Canadian Law List; for up-to-date statistics and historical facts relating to the states of the world, he refers to the Statesman's Year Book.

Appleton's Cyclopedia of American Government gives him very nearly everything he wishes to know about this nation down to about the year 1914; Harper's Book of Facts condenses the history of the world from 4004 B. C. to 1906 A. D. into one fair-sized volume; Jones's Dictionary of Foreign Phrases and Classical Quotations furnishes him with a large stock of phrases, quotations, idioms, proverbs, maxims, mottoes, technical words and terms and press allusions from the Latin, Greek,

French, German, Italian, Spanish and Portuguese, with the English translations or equivalents; thousands of questions on practical subjects are answered by the current volume of the World Almanac; an account of the old American, English, Irish and Scotch law books he finds in Marvin's Legal Bibliography. Of course, the Bible is there, for as someone has said, "man is incurably religious." Of this Book of books Chancellor Kent said, "The general diffusion of the Bible is the most effectual way to civilize and humanize mankind; to purify and exalt the general system of public morals; to give efficacy to the just precepts of international and municipal law; to enforce the observance of prudence, temperance, justice and fortitude; and to improve all the relations of social and domestic life." Daniel Webster said, "I have read the Bible through many times, and now make it a practice to read it through once every year. It is a Book of all others for lawyers, as well as divines; and I pity the man who cannot find in it a rich supply of thought and of rules of conduct."

Joseph H. Choate, in speaking of his illustrious kinsman, Rufus Choate, said, "You can hardly find a speech, argument or lecture of his, from first to last, that is not sprinkled and studded with Biblical ideas and pictures, and Biblical words and phrases."

To this a reader may say: "That was all very well for those times, but today the court has no time for nonessentials; an argument must be concise."

So much the greater need then for the language

of the Bible. It would be impossible to compress its style, and there may be found the perfection of brevity. On this subject Arlo Bates gives this illustration in his Talks on Writing English:

> "Water having been brought, Pilate, according to Miss Corelli, thus proceeded:
>
> " 'Slowly lowering his hands, he dipped them in the shining bowl, rinsing them over and over again in the clear, cold element, which sparkled in its polished receptacle like an opal against the fire.' "
>
> "The Bible finds it possible to say all of this that is necessary in the words:
>
> " 'Pilate took water, and washed his hands.' "

The reference books just mentioned are shelved together. Following them are the legal directories.

It pays a reader to be on familiar terms with these directories for many times they help with their variety of information, partially shown here:

"The American Bar: a biographical directory of contemporary lawyers of the United States and Canada." (The James C. Fifield Co., Minneapolis); "The American Law List, containing the names of representative members of the bar engaged in general and corporation practice in the cities and towns of the United States, Canada, Great Britain, Central and South America, Europe, Asia, Africa, etc." (New York, The American Law List); "The Lawyer's List, a selected list of general practitioners, corporation and trial lawyers of the United States

of America; containing also a list of counsel in patent, trade mark and copyright causes in the United States and Canada, and the names of representative legal practitioners in Canada, England, Scotland, Ireland, Central America, South America, Africa, Asia, Australasia and Europe." (New York, Hubert Rutherford Brown); "The Attorneys List" (United States Fidelity and Guaranty Company, Department of Guaranteed Attorneys, Baltimore, Md.) contains, among other things, a synopsis of the laws affecting collections in the United States, a list of towns, attorneys and banks in the United States; a synopses of statutory laws affecting collections in Canada, a list of towns, attorneys and banks of Canada, a list of foreign attorneys, United States Consular offices, list of agents, population of towns, distance of towns from county seats, near-by towns, and miles to them; "Fisher's Probate Law Directory" (St. Louis, The Legal Directory Publishing Company), containing a synopsis of the laws of the various states in the United States and Foreign Countries relating to estates of deceased persons, copies of wills of prominent Americans, general forms of wills and citation of authorities, list of attorneys and counselors at law; on page 4 there is a reference calendar for years 1761 to 1952; on page 6, actuaries' or combined experience table of mortality; page 7, dates of regular meetings of legislatures; "Kime's International Law Directory" (London, Butterworth and Company), a selected list of trustworthy legal practitioners in most of the

principal towns throughout the civilized world, with telegraphic code and appendix, containing general legal information; "The American Lawyers Annual" (The American Lawyers Annual Co., Cleveland, Ohio), the table of contents of which reads as follows: "Key to financial and real estate ratings; abbreviations (of law lists in which lawyers named in this annual are listed in other directories); list of attorneys for the United States; list of attorneys for Canada; list of attorneys for Alaska, Cuba, Hawaii, Panama, Philippine Islands, Porto Rico, Mexico, Central America and West Indies; list of foreign postal rates and regulations; dower and annuity tables; estate, gift and stamp taxes under the Revenue Act of 1926, and mortality tables; United States Passport Regulations; United States Naturalization Laws, Canons of Ethics of the American Bar Association"; "The Insurance Bar" (Chicago, The Bar List Publishing Co.) containing a list of "prominent insurance companies, directory of insurance lawyers, digest of insurance laws, list of state insurance officials"; "The Lawyers Directory," (Philadephia, Sharp and Alleman Company) containing a list of "outstanding lawyers in all cities and larger towns in the United States and Canada, together with a list of lawyers of unquestioned ability and standing in Foreign Countries; United States, state and county court Calendars; synopses of the laws of the United States, Canada, Mexico, European and South American countries; forms for acknowledgement of deeds, instructions for tak-

ing depositions, affidavits to accounts, etc., for all the states; a comprehensive treatise on the Inheritance Tax Law, with schedules and examples; a complete list of United States Embassies, Legations and Consuls throughout the world; a national list of Legal Journals; concise treatise on the Patent and Trade Mark Laws of the United States"; "Hubbel's Legal Directory" (The Hubbell Publishing Company, New York) Contents—"List of lawyers; Synopses of the Laws of the United States of America; Synopsis of the Patent Law (also list of Patent Attorneys); Trade Mark laws of the United States; Synopsis of the laws concerning Jurisdiction and Procedure in the United States Courts; United States and state court calendars; Synopses of the Laws of Canada (Federal and Provinces), Cuba, England and Scotland, France, Germany, Holland, Japan and Mexico; List of United States Consuls"; "Martindale's American Law Directory" (Martindale's American Law Directory, Inc., New York). This directory gives through confidential key the lawyer's estimated legal ability, recommendations, estimated worth, and rating for promptness in paying bills. For that reason a note to the foreword says that "the holder of this directory must not sell, loan or give it away, nor allow anyone not in his employ to examine it." It contains "a complete list of the Bar of the United States of America, of the Dominion of Canada, and of Newfoundland; a selected list of foreign lawyers; Roster of Patent Attorneys." It also lists Account-

ants, Auditors and Tax Collectors, Banks, Corporation Companies; Court Reporters; Handwriting Experts; Notaries; Research Service. Also there are digests of the laws of the states and nearly all foreign countries; United States Patent Law Digest; United States Tax Laws; United States Trade Mark Law Digest; United States and State Court Calendars. "The Martindale Guide" (The Martindale Mercantile Agency, New York) "publishes a carefully selected list of attorneys whose standing and methods have been carefully investigated";* * * collection rates and rules; tabulated laws relative to days of grace, interest, jurisdiction of Justices of the Peace, Statute of Limitations on accounts, notes and judgments, assignments, attachments, age of majority; cipher code; town and bank with listed attorney, population of towns in the United States, Dominion of Canada, Newfoundland, Costa Rica, Cuba, England, France, Germany, Holland, Mexico, Nicaragua, Roumania, Scotland.

One may ask, perhaps, why we have gone so fully into the contents of these directories. Our answer is, "Because lawyers unacquainted with these books are likely to overlook them when seeking just the sort of information contained in them." A thing to be remembered in the Law Library is that quite often there are more places than the reader can recall where the information he is seeking may be found.

If the reader can picture the East front of the United States Capitol, he will see, to the right of the

main steps, on the ground level, the five windows of the Law Library. The central window is interesting for the reason that through it passed the wire carrying the first telegraph message, "What hath God wrought?" Near this window Marshall sat as Chief Justice of the United States Supreme Court. The room is semi-circular and its high ceiling is supported by fluted columns connected by graceful arches.

One of the passageways, formed by the book shelves, opens into a fan-shaped room where all the available space is used for the treatises. Before taking up these books, it may be well to consider some of the views expressed by lawyers regarding the relative weight to be given to the treatises and the reports of cases. After the introduction of the case method of teaching law, there followed a long controversy on the subject. Lawyers and law teachers throughout the country took sides on this question and many expressed their views in articles published in the legal periodicals.

While most of these articles have to do with the subject of teaching law students, they apply to lawyers as well, for the reason that good lawyers are students of law all their days, and, as Mr. W. L. Penfield says, "The older they grow and the shorter becomes their term of life, the more do they desiderate the true method of legal education in order that they may become, before they die, the best possible lawyers."

Mr. Joel Prentiss Bishop, the author of many law

treatises, gives his experience in studying law in an article published in The American Law Review, Vol. 22, p. 1, as follows:

> "I recall my own student days, not in a law school, but in the office of a firm of practicing lawyers. I came in contact with many young men who were likewise students in offices, for the place was one of our large cities. In describing my own experience, therefore, I describe also theirs, though chance may have given me more than the average facilities for practice. I read text-books, doubtless not the same over which Professor Gray stumbled, but such as were put into my hands, and in connection with them I read, as did the other students in the office, collateral cases to the extent necessary to make their teachings practical and distinct. I rendered to the lawyers under whom I was studying whatever assistance I could in their professional business. In return, they gave me such aid as I needed. After five or six weeks, I began to draft papers for them; and, not much later, I took the entire charge of their small court business, consulting with clients and trying their cases in court. And in less than half of Professor Gray's three years, I was practicing as an admitted counsellor before the full bench of the highest court of the state. Doubtless we, whose course I have thus described, had shortcomings whereof we were ignorant. But, in consulting with our clients, we kept them in paths where no harm befell them; in court, we won their cases, and the judges approved of all our steps; and our clients bestowed upon us both their gratitude and their money. Looking

back through a long vista of years upon these happily remembered days, I can find it neither in my heart nor in my understanding to denounce, as utterly unworthy for purposes of legal education, those text-books which enabled me to make a successful entry into the profession from a period of study which I acknowledge to be too short, and so to practice the law as to draw around me clients whose sad regrets when I relinquished practice for law writing I can scarcely remember without emotions not for public utterance.

Nor can I forbear to put another testimony by the side of Professor Gray's. A young lawyer writes me, earnestly craving advice. He said that he studied law through cases, ignoring text-books, and became an enthusiast of the method. Opening an office for practice he continued the study of cases alone. Thus he went on until his mind was overwhelmed with a mass which he could not wield. He now finds that he must change his method or give up all attempt at legal practice."

Professor William A. Keener, when Dean of the Columbia College Law School, in a paper read before the American Bar Association in 1894, entitled "The Inductive Method in Legal Education," said:

"How does the practicing lawyer of today, investigating a question with a view to preparing an opinion or writing a brief, inform himself? Is it by reading a text-book and seeking to understand the author's point of view in the light of the illustration which an author may use, or does he use the treatise, much as he does a digest, for the purpose of finding the original

> sources, the examination of which, when found, constitutes his real work, and enables him to deal with the subject under consideration? No one will question that the latter is the method by which the successful lawyer of today accomplishes results."

Note also what Mr. Penfield says in an article entitled "Text-Books vs. Leading Cases," 25 American Law Review, page 243:

> "The lawyer who recollects the experience of his early induction into the practice of his profession retains a lively sense of the crushed and bewildered condition of his mind, after wandering through a maze of inconsistent decisions in the search of a governing principle—with what relief, with what a sense of gratitude does he turn to the clear and luminous pages of some of the great authors (whom it is not a condescension to call jurists), and tread the open paths blazed through the tangled overgrowth? The ruling principle is disclosed and the chaotic decisions at once range themselves in order; and, instead of burdening the mind, they combine to support the argument. To the young lawyer, they are indispensable; to the old lawyer, useful."

Recently there came into the Law Library a very able lawyer, and, knowing that he was working on a case of such importance as to be mentioned on the front pages of the newspapers throughout the country, it was interesting to see how he went about his legal search. The point he was investigating had to do with the arrest of a witness in an effort to get his testimony. The lawyer's first request was

for several standard works on evidence. These he pored over for perhaps two hours, jotting down now and then notes and citations. When he had done with the text-books, he gathered up his notes, and very soon his assistants had him surrounded with reports from Federal, State and English courts. From these he obtained the decisions supporting the principles discussed in the text-books.

To furnish a practical illustration of the part played by text-books in the preparation of cases and arguments, let us take two important cases decided recently by the United States Supreme Court, one being *United States v. Chemical Foundation, Inc.*, 272 U. S., page 1; the other, *Beech-Nut Packing Co. v. Lorillard Co.*, 273 U. S., page 629. In the first case, Mr. John W. Davis and his associate counsel, representing the appellee, cite in their brief the following text-books: Bigelow on Estoppel, (5th Ed.); Bishop on Criminal Law; Bishop on Statutory Crimes, (3d. Ed.); Black on Rescission of Contracts; Chaplin on Express Trusts and Powers; Huffcut on Agency, (2d Ed.); Meares' Trading with the Enemy Act; Mechem on Agency; Morawetz on Corporations; Tideman on Equity Jurisprudence; Walker on Patents, (4th Ed.); Wharton's Criminal Procedure, (10th Ed.); Wigmore's Evidence. In the brief for the appellant, United States of America, Mr. Solicitor General William D. Mitchell and the Assistant Attorneys General cited the following: Kent's Commentaries; Lewis on Eminent Domain; Perry on Trusts, (5th Ed.); Perry on Trusts and

Trustees; Pomeroy's Equity Jurisprudence; Story's Equity Jurisprudence; Sugden on Powers; Taft's Our Chief Magistrate and His Powers; Wilson's Addresses to Congress. In the second case, Mr. Charles E. Hughes and his associate counsel, cite in their brief for petitioner, Hopkins on the Law of Trade-marks, Tradenames and Unfair Competition, (3d Ed.); and Schechter's Historical Foundations of the Law Relating to Trade-marks. Mr. John W. Davis and his associate counsel, in their brief for the Lorillard Company, cite: Brown on Trade-marks; Hopins on Trade-marks, (3d Ed.), and Nims on Unfair Competition and Trade-marks, (2d Ed.).

Some text-books are worth citing while others are not. With regard to the text-books, we might paraphrase Justice Miller's comment on court decisions, and say that the value of a text-book is estimated by the character of its author. Text-books written by such men as Kent, Wigmore, Benjamin and Cooley have a value apart from their case supported statements. Even their obiter dicta have weight in the minds of lawyers who have a just estimate of their ability.

Probably no writer of law books has been more severe in his criticism of the unworthy products of his fellow authors than Mr. Joel Prentiss Bishop; and in his article, hitherto mentioned, as a warning against the worthlessness of some text-books, he says:

> "It was once my fortune, in my younger days, to be present when one of the most eminent of

law publishers was endeavoring to contract with a young author for a book. The author described the labor which the making of it would cost him, and added, 'I cannot afford to do it for the price you offer.' 'Oh!' replied the publisher, 'we do not expect you to do it so. There are two English books on that subject; cut them up, arrange the matter for yourself, work in with it a little American law, and we shall be satisfied. That is the way old heads do. Why, in So-and-so's copy for the printer, one could scarcely find any chirography.' "

To this Mr. Bishop added this humorous story:

"Many years ago there were in the circle of my acquaintance two men who made a somewhat smaller law book than another then in use on the same subject. The larger book was the whale, and the smaller was Jonah. So the whale, in a plunge for life called a new edition, swallowed the choice parts of Jonah,—not the whole of him; I think it was something like one-third. It may be a little more or less; for I speak only from memory, the verification having been made some years ago. So voracious was the whale that, though gobbling for head and heart, it got boots and spurs also. In other words, the printed matter of the smaller book appeared in the larger without the correction of those little mistakes which are unavoidable in books, having evidently been sent to the printer of the larger without copying. Jonah died, but the whale lives. It took at the same time a smaller gulp from another book, which survived, like the original Jonah; but, unlike him, was never cast up upon dry land. Nothing more of sufficient magnitude to be worth mentioning

> was ever done for the enlargement of the whale; and, to drop the figure, it remains now one of your honored books, progressing from edition to edition, and reverently cited by the bar, and bowed profoundly before the judges."

To what book Mr. Bishop referred, we do not know; nor do we know what bar cited it, or what judges bowed to it. The judges hardly approved of plagiarism; but they may have felt about this book somewhat as Benjamin Franklin did about the sermons of a certain visiting preacher, detected in plagiarizing. Said Franklin:

> "This detection gave many of our party disgust, who accordingly abandoned his cause, and occasioned our more speedy discomforture in the synod. I stuck by him, however, as I rather approved his giving us good sermons composed by others than bad ones of his own manufacture, though the latter was the practice of our common teachers."

Forewarned by these criticisms for and against the treatises, let us consider the large collection that fills this little room to overflowing. There are so many books here that it would be impracticable to attempt to do more than point out some that our eyes light upon as we wander by the shelves. There are some that readily attract our attention for the reason that the authors' names have become almost synonymous with the subjects they treat, such as Mechem with Agency; Collier and Remington with Bankruptcy; Story, Willoughby and Watson with Constitutional Law; Thompson, Cook, Machen,

Clark and Marshall with Corporations; Raines with Business Law; Labatt with Master and Servant; Sutherland and Sedgwick with Damages; Abbott, Dunlap and Jones with Forms; Schouler and Tiffany with Domestic Relations; Perry, Stephen and Kinkead with Pleadings; Elliott and Redfield with Railroads; Huddy, Berry and Blashfield with Automobiles; Wigmore, Chamberlayne and Jones with Evidence; Rose, Montgomery, Dobie, Robertson and Foster with Federal Practice; Tiffany and Thompson with Real Property; Underhill, Perry and Tiffany with Trusts and Trustees; Farnham, Wiel, Kinney and Pomeroy with Waters; Freeman and Black with Judgments; McAdam, Jones and Tiffany with Landlord and Tenant; Schouler with Personal Property; Williston and Page with Contracts and Sales; Jarman, Rood, Page and Schouler with Wills; Wheaton, Wharton, Hyde and Moore with International Law. There are others which have escaped our mind's eye.

We will now consider books that are frequently called for or that are interesting in one way or another. There are several sets of Blackstone's Commentaries. The first is an edition by St. George Tucker, one time professor of law in the College of William and Mary, and one of the Judges of the General Court of Virginia. As we are writing about the Law Library, where Chief Justice Marshall was for so many years, we might mention parenthetically, that the copy of Blackstone over which he pored is a treasured possession in the library of

the College of William and Mary. St. George Tucker's edition of Blackstone was published by William Young Birch and Abraham Small, Philadelphia, in 1803, a year linked with the purchase of the Louisiana Territory made by another one of William and Mary's distinguished sons. It contains, according to the title page of the first volume, "notes and references to the Constitution and laws of the Federal Government of the United States, and of the Commonwealth of Virginia, in five volumes, with an appendix to each volume containing short tracts upon such subjects as appeared necessary to form a connected view of the laws of Virginia, as a member of the Federal Union."

Next there is a four-volume set by John L. Wendell (New York, Harper and Brothers, 1858), "with the last corrections of the author, and notes, from the 21st London edition. With copious notes explaining the changes in the law effected by decision or statute down to 1844. * * * Together with notes adapting the work to the American student."

There is also a book of Blackstone by George Sharswood (Philadelphia, Childs and Peterson, 1860), with notes selected from the editions of Stewart, Kerr and others, with Baron Field's analysis, and additional notes, and a memoir of Blackstone by the American author.

Again, we find a two-volume set "adapted to the present state of the law," by Robert Malcolm Kerr, 4th Edition, (London, J. Murray, 1876), and still another two-volume set by Thomas M. Cooley, 3d Edi-

tion, revised, (Chicago, Callaghan and Co., 1884), with notes referring to English and American decisions and statutes, with a full table of abbreviations, also a 4th edition of this by James De Witt Andrews, same publishers, 1899. This is followed by William Draper Lewis' edition (Philadelphia, R. Welsh and Co., 1897), with notes selected from other editions and added notes of references to text-books and decisions wherein the commentaries have been cited, and to statutes modifying the text.

The last edition of Blackstone's Commentaries on the shelves of the Law Library is edited by William Carey Jones, (San Francisco, Bancroft-Whitney Co., 1915) in two volumes. In the first volume there is an unusually interesting account of the Commentaries, by Mr. Jones, followed by several pages on the bibliography of the Commentaries, by William G. Hammond, a recognized scholar.

Mr. G. J. Clark, in his valuable book, "Great Sayings of Great Lawyers" (Lawyers' International Publishing Co., Kansas City, Mo., 1922) says of Blackstone, "at twenty-three, he was made bachelor of civil law, and for years made little progress; at thirty-one, he was engaged as counsel in the county election, at Oxford; at thirty-five, became Vinerian professor at Oxford, and gave sixty lectures a year, on the Common Law of England, for which he was paid $1,000 yearly; with the distinction these lectures gave him, he returned to London, at thirty-six, resuming his practice; in 1765, when forty-two, appeared his first volume on the Commentaries of the

Laws of England. It passed through eight editions, during his life, and with his lectures made him $80,000."

Justice Bradley, of the United States Supreme Court, said of Blackstone (Great Sayings of Great Lawyers, page 74): "There is nothing to compare with the Commentaries of Sir William Blackstone, in completeness of scope, purity and elegance of diction, and appositeness, if not always absolute accuracy, of definition and statement."

It is gratifying to know that Blackstone made a fortune with his brain and pen. However, that he had trouble with literary distorters and pirates, is shown by the following excerpt from the preface to the first edition of his work:

> "For the truth is, that the present publication is as much the effect of necessity, as it is of choice. The notes which were taken by his (Blackstone's) hearers, have by some of them (too partial in his favor) been thought worth revising and transcribing; and these transcripts have been frequently lent to others. Hence copies have been multiplied, in their nature imperfect, if not erroneous; some of which have fallen into mercenary hands, and become the object of clandestine sale. Having therefore so much reason to apprehend a surreptitious impression, he chose rather to submit his own errors to the world, than to seem answerable for those of other men. And with this apology, he commits himself to the indulgence of the public. 2 Nov., 1765." Jones' "Blackstone" (1915), Vol. 1, p. iii.

In connection with Blackstone's "Commentaries" it is interesting to recall this story told by Abraham Lincoln:

> "One day a man who was migrating to the west drove up in front of my store with a wagon which contained his family and household plunder. He asked me if I would buy an old barrel for which he had no room in his wagon, and which he said contained nothing of special value. I did not want it, but to oblige him I bought it, and paid him, I think, half a dollar for it. Without further examination I put it away in the store and forgot all about it. Some time after, in overhauling things, I came upon the barrel, and emptying it upon the floor to see what it contained, I found at the bottom of the rubbish a complete edition of Blackstone's 'Commentaries.' I began to read those famous works, and I had plenty of time; for during the long summer days, when the farmers were busy with their crops, my customers were few and far between. The more I read the more intensely interested I became. Never in my whole life was my mind so thoroughly absorbed. I read until I devoured them."

Also this advice Mr. Lincoln gave to a young man who wanted to know how to become a lawyer: "Get books and read and study them carefully. Begin with Blackstone's 'Commentaries,' say twice, take Chitty's 'Pleadings,' Greenleaf's 'Evidence,' and Story's 'Equity,' in succession. Work, work, work is the main thing."

What appears to be a close competitor of Black-

stone's great masterpiece, is the "Commentaries of the Laws of England," by Henry John Stephen. Since its publication in 1841, there had been eighteen editions down to the year 1925. This work is partly founded on Blackstone. The edition in the Law Library (18th) is "thoroughly revised and modernized and brought to the present time under the general editorship of Edward Jenks, of the Middle Temple, Barrister-at-Law" (London, Butterworth and Co., 1925). There are four volumes in this set. The first deals with Public Law; the second with the Law of Property; the third with the Law of Obligations and Civil Procedure; the fourth with Crimes and Criminal Procedure.

The first classical text-book of the English common law is one entitled "A Treatise on the Laws and Customs of England," said to have been written nearly eight centuries ago by Ranulf de Glanville, trusted adviser, ambassador, prime minister, and chief justiciar of Henry II. It is believed by some that Glanville was too busy a man to have written this book, and that its author was more likely some learned clerk at his court. First printed in 1554, this work was early translated into French. In 1812 an English version by Beames appeared. The edition in the Law Library is Beames' translation, edited by Professor Joseph H. Beale, jr., and published in 1900.

Other books dealing with the Common Law are: "Council and Courts in Anglo-Norman England," by George B. Adams (Yale University Press, New

Haven, 1926); "The Reasonableness of the Law; the Adaptability of Legal Sanctions to the Needs of Society," by Charles W. Bacon and Franklin S. Morse, with an introduction by James A. Woodburn (New York and London, G. P. Putnam's Sons, 1924); "The Common Law," by Oliver Wendell Holmes, jr. (Little, Brown and Co., 1881); "Commentaries on the Common Law, designated as introductory to its study," by Herbert Broom, 9th edition, by W. F. A. Archibald and H. A. Colfax (London, Sweet and Maxwell, Ltd., 1896); a 10th edition of this, by William Blake Odgers and Walter Blake Odgers (same publishers, 1911); "Constitutional Law viewed in relation to Common Law, and exemplified by cases," by Herbert Broom, 2d Edition, by George L. Denman (W. Maxwell and Son, London, 1885); Cockle and Hibert's "Leading Cases in Common Law" with notes, explanatory and connective, presenting a systematic view of the whole subject (London, Sweet and Maxwell, Ltd., 1921); "A Treatise on the Common and Civil Law, as embraced in the Jurisprudence of the United States," William A. Cocke (New York, Baker, Voorhis and Co., 1871).

Of Chancellor James Kent's Commentaries on American Law there is a four-volume set (12th Ed. edited by Oliver Wendell Holmes, jr., 14th Ed. edited by John M. Gould,, Boston, Little, Brown and Co., 1896). In the preface, written more than a half century ago, Mr. Justice Holmes says, "The great weight attaching to any opinion of Chancellor Kent

has been deemed a sufficient reason for not attempting any alteration in his text or notes." Judge John F. Dillon, in his "Laws and Jurisprudence of England and America," page 379, says of Chancellor Kent: "As a judge and author, he will not suffer when compared with the greatest names which have adorned the English law. Higher praise is not possible. * * * Simple as a child in his tastes and habits throughout his tranquil and useful life; more than any other judge the creator of the equity system of this country; the author of Commentaries which, in accuracy and learning, in eloquence, purity and vigor of style rival those of Sir William Blackstone. His name is admired, his writings prized and his judgments at law and in equity respected in every quarter of the globe, nowhere more than in England, where in its widening conquest the English language of freedom has carried the English law."

Nathan Dane's "General Abridgement and Digest of American Law," published in nine volumes, by Cummings, Hilliard and Co., of Boston, 1823-4-9, has been useful to American lawyers, especially to students, and those of the profession who cannot possess many law books. At present this set is not often called for, but it must have enjoyed great popularity for many years. The ninth volume was published in 1829; and some idea may be obtained of the rapidly increasing business of the state legislatures and courts of a hundred years ago through this statement in its preface: "After all, as for-

merly observed, the enactment of near thirty legislatures, and the decisions of as many supreme courts, are so extremely numerous in nine years only, that a large volume can be but a mere sketch of them; and this with a view mainly to show the spirit and principles of the laws in our several states." Mr. Dane was graduated from Harvard in 1778. We are told that he contributed $15,000.00 toward founding the Harvard Law School, and that the Dane professorship of law was named in his honor. Mr. Dane was thirty-five when the Constitutional Convention was held in Philadelphia, and probably knew many of the delegates.

From his books it is but a short step to Elliot's work on the Constitution, the title page of which describes it as follows: "The Debates in the several state conventions, on the adoption of the Federal Constitution, as recommended by the General Convention at Philadelphia, in 1787. Together with the Journal of the Federal Convention, Luther Martin's Letter, Yates' Minutes, Congressional Opinions, Virginia and Kentucky Resolutions of '98-'99, and other Illustrations of the Constitution. In four volumes. * * * Second edition, with considerable additions. Collected and Revised from Contemporary Publications, by Jonathan Elliot. Published under the sanction of Congress. Washington: Printed by and for the Editor on the Pennsylvania Avenue, 1836." A supplemental volume was issued in 1845. This is one of the few works in the Law Library

printed in the City of Washington; and it is interesting to know that it came into being so near the Capitol, and upon the famous avenue down which have passed parades of notables—newly inaugurated presidents, kings, queens, princes and princesses of foreign lands, triumphant armies and our ambassador of peace, Lindbergh. In the Law Library there are two editions of Elliot's Debates—1836 and 1896. The value of this work and a fine spirit of loyalty to Harvard are shown by this extract from a letter written by Mr. Justice Joseph Story to Mr. Elliot, and printed on page viii of Vol. 1 of the 1836 edition: "Cambridge, Mass., Aug. 28, 1830. Dear Sir—I wish you to direct your Boston bookseller to send a copy of your work to the Law Library of Harvard College. I have not a doubt that it will find a ready sale among us. * * * In a political view I can scarcely imagine a more acceptable present to the public; and to statesmen it must be invaluable, as a repository of *facts,* as well as of *arguments,* respecting *the great points of constitutional law.* I am with great respect, your obliged and humble servant, Joseph Story." How sound Justice Story's judgment was as to the value of this work is shown by the fact that, after nearly a century has elapsed, members of the Senate and House continually refer to Elliot's Debates in support of their arguments on Constitutional questions.

Some of the old books have a page of errata. The 1836 edition of Elliot's Debates has none. Instead we find this diplomatic note following the preface:

"The reader is requested to excuse a few typographical mistakes, committed on the execution of this work, which, to the intelligent, are sufficiently obvious, without pointing them out in an errata."

Of the Associate Justices who sat in this room, when it was the Supreme Court Chamber, Joseph Story is most often brought to mind. There is his bust, made by his son, and three volumes of the public and general statutes, hitherto mentioned. His opinions in the Circuit Court are in the reports of Gallison, Mason, Sumner and Story. His opinions in the United States Supreme Court are found in thirty-four volumes—from 7 Cranch to 3 Howard, inclusive. Besides these there are many of his books in the Law Library. Mr. Hampton L. Carson, in his "History of the Supreme Court of the United States" says: "Story swept the bounds of jurisprudence with comprehensive glance, and poured forth the rich accumulations of his industry with flowing pen." Among Justice Story's books are: "Commentaries on the Law of Agency as a branch of Commercial and Maritime Jurisprudence," 9th ed., revised, with additions, by Charles P. Greenough (Boston, Little, Brown and Co., * * *, 1882); "Commentaries on the Law of Bailments," 9th ed., revised, corrected and enlarged, by James Schouler (same publishers, 1878); "Commentaries on the Law of Bills of Exchange," 4th ed., revised, corrected and enlarged (same publishers, 1860); "Commentaries on the Conflict of Laws," 8th ed., by Melville M. Bigelow (same publishers, 1883);

"Commentaries on the Constitution of the United States: with a preliminary review of the constitutional history of the colonies and states before the adoption of the Constitution," 5th ed., by Melville M. Bigelow (same publishers, 1891); "Commentaries on Equity Jurisprudence as administered in England and America," 13th ed., by Melville M. Bigelow (same publishers, 1886); a 14th ed. of this work, by W. H. Lyon, jr. (same publishers, 1918); a 3rd English edition, by A. E. Randall (London, Sweet and Maxwell, Ltd., 1920); "Commentaries on the Law of Promissory Notes," 7th ed., by John L. Thorndike (Little, Brown and Co., 1878); "Commentaries on Equity Pleadings," 10th ed., revised, corrected and enlarged, by John M. Gould (same publishers, 1892); "Commentaries on the Law of Partnership," 7th ed., by William Fisher Wharton (same publishers, 1881); "Miscellaneous Writings of Joseph Story," by his son, W. W. Story (C. C. Little and J. Brown, Boston, 1852); "Notes on the Principles and Practice of Prize Courts: with a selection of documents and forms used in the High Court of Admiralty of England," edition by Frederick Thomas Pratt (London, W. Benning and Co., 1854); "A Selection of Pleadings in Civil Actions, subsequent to the declaration" (Salem, Barnard B. Macanulty, 1805, Manning and Loring, printers, Boston); Same, 2d edition, with additions, by Benjamin L. Oliver, Jr. (Boston, Carter and Hendee, 1829).

Here, in the Law Library, where the spirit of the

Great Chief Justice seems so near, one reads with added interest these words of Justice Story in dedicating his "Commentaries on the Constitution of the United States" to Marshall. "I ask the favor of dedicating this work to you. I know not to whom it could with so much propriety be dedicated as to one whose youth was engaged in the arduous enterprises of the Revolution, whose manhood assisted in framing and supporting the national Constitution, and whose maturer years have been devoted to the task of unfolding its powers and illustrating its principles."

The mention of Justice Story's works naturally suggests to our thoughts three books by Mr. Charles Warren, a gifted lawyer, formerly of Justice Story's native City of Boston, but now a resident of Washington, D. C. The first of these books is entitled "The Supreme Court in United States History" (Little, Brown, and Company, Boston, 1922), the second "Congress, the Constitution, and the Supreme Court" (same publishers, 1925), the third, "The Making of the Constitution," (same publishers, 1928), deals with the work done by the Federal Convention in those four fateful summer months of 1787. A vast collection of material on this subject was gathered and used by Mr. Warren with his usual good judgment. The genius of the author, through the deft touch of his facile pen and well-chosen quotations from old letters, newspapers and town and country gossip, here and there, brings out the dim figures from the distant past and turn them

into very real men, much like those, in many respects, who are making history about us today. Despite the opening sentence in the preface to "The Supreme Court in United States History"—"This book is not a law book"—all of Mr. Warren's books furnish a vast deal of valuable information to the student of constitutional and statutory law.

It is a far cry from the Constitutional Convention in quiet Philadelphia, to the "Lone Eagle's" flight to the gay City of Paris, yet we find shelved near Mr. Warren's books one entitled "Law of the Air," by Carl Zollman (The Bruce Publishing Company, Milwaukee, Wis., 1927). The preface to this unusual book begins with the very gratifying statement, "Aeronautics and radio excellently illustrate the fact that arts developed under the strain of war conditions quickly adapt themselves to the demands of peace." This book deals with such novel subjects as governmental control of the air, collisions in the air, ownership in wave lengths, municipal broadcasting, etc. The appendices contain matter pertaining to the International Air Navigation Convention, Air Commerce Act of 1926, Air Commerce Regulations, Radio Act of 1927, Uniform State Law of Aeronautics, General Orders Issued by the Federal Radio Commission.

On the subject of passing air crafts, we find in paragraph (C), section 82, of the Air Commerce Regulations, that "if the circumstances permit, the craft which is required to give way shall avoid crossing ahead of the other. The other craft may main-

tain its course and speed, but no engine driven craft may pursue its course if it would come within 300 feet of another craft, 300 feet being the minimum distance within which aircraft, other than military aircraft of the United States engaged in military manœuvers and commercial aircraft engaged in local industrial operations, may come within proximity of each other in flight."

Of the greater danger of collision of earth-bound crafts, we are painfully reminded by this concluding paragraph of the preface to Mr. Zollman's book: "On the very eve of publication, the tragic death of Max Schoetz, Dean of Marquette University School of Law, through whom the author made his first contact with the publisher, has deeply saddened both. While he was on his way to the Marquette University Commencement Exercises on June 8th, the automobile in which he was traveling was thrown by an express train into the Menominee River. A train going in the opposite direction had all too successfully screened the approach of the engine of destruction. With him the author has lost a friend whose active interest in his literary work could not have been more constant and sincere."

Surely, it would be refreshing, when reading dusty legal tomes, to come often upon such lines as these of Tennyson, found on page 92 of Mr. Zollman's book:

"Men, my brothers, men the workers, ever reaping something new,
That which they have done by earnest of the things that they should do;

For I dipped into the future, far as human eye could see,
Saw the visions of the world, and all the wonders that would be;
Saw the heavens fill with commerce, argosies of magic sails,
Pilots of the purple twilight, dropping down with costly bales;
Heard the heavens fill with shouting, and there rained a ghastly dew
From the nations' airy navies, grappling in the central blue:
Far along the world-wide whisper of the south wind rushing warm,
With the standards of the peoples plunging through the thunder storm,
Till the war drums throbbed no longer, and the battle flags were furled.
In the Parliament of Man, the Federation of the World."

A fascinating book is one entitled "Studies in the Civil Law," by William Wirt Howe, of the New Orleans Bar, 2d Ed. (Boston, Little, Brown and Co., 1905). Here we find an entertaining statement of the elements of Roman Law; a tracing of this law to modern civil law in Europe and America; references to the law of our insular possessions; and a comparison of the leading doctrines of the Civil Law with those of the Common Law. Looking upon the mausoleums in the beautiful cemeteries of New Orleans, we somehow sense a connection between them and very distant times and places. Even in these sophisticated times the Civil Law recognizes

the importance of the family group. For instance, in Louisiana, in matters pertaining to the property rights of an orphaned minor, the court calls together a family meeting, composed of "five relatives or in default of relations, friends of him on whose interests they are called upon to deliberate. * * * The relations shall be selected according to their proximity beginning with the nearest. The relation shall be preferred to the connection of the same degree, and among relations of the same degree, the eldest shall be preferred." In this gathering of descendants of a common ancestor, we are reminded of the pater familias of ancient Rome, and of yet earlier times, when ancestral spirits were worshipped and images made to represent household gods. Regarding these last, Mr. Howe carries us back even into Old Testament times, saying: "These little images seem to have been a part of the family possessions among primitive people and to have had great value. Thus, we are told in the book called Genesis, that when Jacob, with his family, left the house of his father-in-law, Laban, Rachel carried off some of these images belonging to her father and sought to keep them. She probably hoped in this way to acquire some right of family worship, to which she attached great importance. Other indications of the same kind are found in a much later period of Hebrew history. In the books of Judges, Samuel, Kings, Zechariah, and Ezekiel, these images, called teraphim, are alluded to, and the most persistent

efforts in behalf of monotheism could not quite prevent their use."

Among other works dealing with the Civil Law there are: "Doctors' Commons and the Old Court of Admiralty: a Short History of the Civilians in England," by William Senior (London, New York, (etc.), Longmans, Green and Co., 1922); "A Digest of Civil Law in England," by Edward Jenks (Editor), W. M. Geldart, W. S. Holdsworth, R. W. Lee, J. C. Mills, 2d Ed. (London, (etc.), Butterworth and Company, 1921); "A Treatise on the Common and Civil Law, as embraced in the Jurisprudence of the United States," by William A. Cocke (New York, Baker, Voorhis and Co., 1871); "Roman Law in the Modern World," by Charles P. Sherman (Boston, The Boston Book Co., 1917); a second edition of this also (New Haven, Conn., New Haven Law Book Co., 1922); "An Introduction to the History of the Development of Law," by M. F. Morris, 2d Ed. (Washington, D. C., 1916, John Byrne and Co.); "The Civil Law in Spain and Spanish-America," by Clifford S. Walton (Washington, D. C., W. H. Lowdermilk and Co., 1900); "The Louisiana Judicial System," by William K. Dart (Indianapolis, The Hollenbeck Press, 1917); "The Institutes, a Text-Book of the History and System of Roman Private Law," by Rudolph Sohm, translated by James C. Ledlie, with an introduction by Erwin Grueber, 2d Ed. (Oxford, Clarendon Press, 1901).

The movement to formulate, and secure the adop-

tion of uniform laws upon commercial and kindred subjects is making progress. Fast trains, automobiles and airplanes, by bringing the states closer together, are accelerating this movement, and the number of states adopting the acts recommended by the National Conference of Commissioners on Uniform State Laws is increasing annually. In 1922 the Edward Thompson Company began the publication of "Uniform Laws, Annotated." This work is edited by H. Noyes Greene, assisted by the editorial staff of the publisher, and presents the uniform laws with notes of statutes and important decisions. As far as warranted, the uniform laws are published in separate volumes. A table in the front of each volume shows in what states the uniform act has been adopted in whole or in part.

A book dealing with state laws is Moore's "The Supreme Court and Unconstitutional Legislation" (1913). An appendix carries a table of cases in which state constitutions and statutes and municipal ordinances have been declared contrary to the National Constitution; classified by states, and according to the constitutional clauses with which the legislative enactments conflicted, also a table of United States Supreme Court cases in which National legislation has been declared contrary to the National Constitution.

More than twenty thousand cases are listed in Bigelow's "Index of the Cases Overruled, Reversed, Denied, Doubted, Modified, Limited, Explained and Distinguished by the Courts of America, England

and Ireland; from the earliest period to 1887." These cases are arranged alphabetically. This book also contains a list of abbreviations of reports.

We are told that in the year 1922 the total value of real estate in the United States was estimated at a value of more than 176 billion dollars, so it is not surprising to learn that litigation on the subject exceeds that pertaining to any other property, and that there are so many law books dealing with it. We shall give here the names of the authors of works which treat in one way or another the subject of real property, the dates of publication: Lomax (1855), Hilliard (1869), Malone (1883), Barbour (1890), Kerr (1895), Pingrey (1895), Hopkins (1896), Rice (1897), Hawley and McGregor (1900), Washburn, 6th edition, by Wurts (1902), Newell (1902), Goodwin (1905), Reeves (1909), Burdick (1914), Berry (1915), Walsh (1915, 1927), Aron (1916), Northrup (1919), Cornelius (1922), Archer (1923), Tiedeman (1906-1924), Thompson (1924), Lewis (1924), Minor, based on his Institutes (1908-1928). A frequently consulted work is the two-volume edition of Tiffany's "The Law of Real Property" (1903), and the enlarged edition of the same (1920). In addition to these there are the following British works dealing with real property: Preston (1820), Cruise (1835), Sugden (1849), Tudor (1856), Smith (1884), Raleigh (1890), Goodeve (1897), Pollock (1896), Digby (1897), Indermaur (1897), Wait (1901), Theobald (1902), Leake (1909), Strahan (1908-1919, 1926), Stead (1920),

Edwards (1896-1922), Topham (1921-1925), Williams (1922-1923), Aggs (1925), Cheshire (1925), Joshua Williams (1920-1926).

One of the latest American works covering the large field of Real Property is Thompson's "Commentaries on the Modern Law of Real Property" (1924), in seven volumes. The last volume of this set is a cyclopedia of forms, ranging from simple transactions to intricate contracts relating to real property. The author of this work adapts special topics from the works of Judge Leonard A. Jones.

Judge Jones is another shining example of a hard-working boy developing into a useful, honored citizen. He was born in Templeton, Worcester County, Mass., January 13, 1832. His father had a chair factory, and this son worked in it and on the farm, when not at school. Later the young man entered Harvard College, from which he was graduated at the age of twenty-two. Then followed a year of teaching in a High School in St. Louis, Mo. Returning to Boston, Mr. Jones entered the Harvard Law School, and when twenty-six, he was admitted to the Massachusetts Bar. For many years he was the editor of the American Law Review, and was the American editor of English Ruling Cases, after the eighteenth volume. In 1898 Mr. Jones was called to the Land Court of Massachusetts, where his profound knowledge of real property law made him a most valuable official. Besides his work on real property, Judge Jones wrote books on Corporate Bonds and Mortgages, Mortgages on Personal Prop-

erty, on Pledges, Liens. He also compiled an index to legal periodicals. Probably no book of its kind has been so often consulted as Judge Jones' book of legal forms.

In the year 1789, Benjamin Franklin, in writing to his friend, M. Leroy, said: "Our Constitution is in actual operation, everything appears to promise that it will last; but in this world nothing is certain but death and taxes." In the Law Library there are books on the subjects of death—death duties—and taxes.

Among the comparatively recent books on taxation are Cooley's "The Law of Taxation," 4th edition, 1924, edited by Clark A. Nichols; Holmes and Brewster's "Procedure and Practice before the United States Board of Tax Appeals" (1925); Barton and Browning's "Federal Income and Estate Tax Laws" (1928); Bickford's "Court Procedure in Federal Tax Cases" (1929); Montgomery's "Income Tax Procedure" (1929); devoted exclusively to the Federal income tax. Vol. 2 of this work deals with practice before the Treasury, Board of Tax Appeals, and Federal Courts.

Books that grow after coming into the library are those of the Prentice-Hall Tax Service. These have the loose-leaf arrangement, and are kept up to date. Within a few days after an opinion is rendered or a ruling or decision made relating to taxes, it will be found in these Tax Service books.

A helpful book on taxation is a fourth edition of Gleason and Otis' "Inheritance Taxation and the

Federal Estate and Gift Taxes" (1925). In addition to an analysis of the law of the entire subject, this book contains statutes, procedure, rules and regulations, decisions, forms, actuaries tables and the American experience table of mortality. The plan adopted of arranging the table of cases by states permits the reader to see at a glance what decisions have been rendered in his home courts.

Across the plaza from the Law Library is the Copyright Office, in the Library of Congress, into which pours a steady stream of books, maps, dramatic compositions, musical compositions, engravings, cuts, prints, photographs, paintings, drawings and chromos. The Federal Reports contain numerous copyright cases, where we find that old acquaintances as "Trilby," "Peg o' My Heart" and "Nick Carter" have had "their day in court." Among the treatises dealing with the subject of copyright are Bewes (1891), Bowker (1912), Copinger (1927), Dawson (1927), Frolich (1918), Wagner (1926), Weil (1917), DeWolf (1925), Settle (1915).

Two books of unusual interest are "Questioned Documents" and "The Problem of Proof," by Albert S. Osborn. In an introduction to the former, Mr. John W. Wigmore says: "The book abounds in the fascination of solved mysteries and celebrated cases. And it introduces us to the world-wide abundance of learning in this field. French and German investigations are amply drawn upon. Psychology, mathematics and literature, as well as chemistry, photography, and microscopy, are made

to serve. The reader arises with profound respect for the dignity of the science and the multifarious dexterity of the art." Of "The Problem of Proof," Mr. Wigmore says, "There is wisdom on every page. * * * It contains varied and valuable warnings for both counsel and witness. Chapter XV on Court Rooms, and Chapter XVIII on Judges, are samples of original and candid comments, which deserve the widest circulation. But Chapter V, on Advocacy, is my favorite. It is the climax of the book. The rest *could* not surpass that mark. I would like to have written that chapter myself,—only I could not. It should be read aloud every year before every law class."

An older (1900) but very interesting book on the subject of questioned writings is Ames on Forgery, its Detection and Illustration, with numerous *causes celebres* (illustrated), by Daniel T. Ames. Among the many famous cases discussed and illustrated are those of the Lewis will contest, Hoboken, N. J., the estate of James G. Fair, San Francisco, Calif., and the Gordon will case, Jersey City, N. J. The opinion in the Gordon case (50 N. J. Equity 397, 26 Atl. 268) contains the following: "Handwriting is an art concerning which correctness of opinion is susceptible of demonstration and I am fully convinced that the value of the opinion of every handwriting expert as evidence must depend upon the clearness with which the expert demonstrates its correctness. * * * Thus comparison is rated after the fashion of circumstantial evidence, depending for strength upon the num-

ber and prominence of the links in the chain. Without such demonstration the opinion of an expert in handwriting is of low order of testimony, for, as the correctness of his opinion is susceptible of ocular demonstration, and it is a matter of common observation that an expert's conclusion is not to be influenced by his employer's interest, the absence of demonstration must be attributed either to deficiency in the expert or lack of merit in his conclusion. It follows that the expert who can most clearly point out will be most highly regarded and most successful."

The criminal who resorts to typewriting to escape detection simply arms his pursuers with a more dangerous weapon, for, as Mr. Osborn says in "Questioned Documents," page 445, "Typewriting individuality in many cases is of the most positive and convincing character and reaches a degree of certainty which may almost be described as absolute proof. The identification of a typewritten document in many cases is exactly parallel to the identification of an individual who precisely answers a general description as to features, complexion, size, etc., and in addition matches a long detailed list of scars, birth-marks, deformities and individual peculiarities."

When drawing up legal papers, a lawyer has a greater feeling of confidence when following a form that has the approval of judges and experienced lawyers. There are a number of good form books in the Law Library, and we shall give here the names

of the compilers of some with dates of their publication. In Bankruptcy matters there are forms in Vol. 2 of Collier on Bankruptcy, 12th edition (1921), in the 13th edition (1923), and in the 1928 Cumulative Supplement, also in Gilbert's Collier on Bankruptcy (1927); in Vol. 3 of Remington on Bankruptcy, 2d edition (1915), and in Vol. 9 of the 3d edition (1925) of same. For Wills, there are compilations of forms by Lewis (1926), Fooks (1926). For Pleadings, there are those of Abbott (1907), Campbell (for the States of Nebraska, Kansas and Oklahoma) (1912), Lewson (for Illinois, Michigan, Mississippi, Florida and Virginia) (1914), Puterbaugh (1926), Winslow (1915, 1929), Kerr (criminal) (1918), Whitehouse (equity) (1921), A Collection of Common Law Practice Forms (John Byrne and Co., 1925), Kelly (criminal) (1928), Kelly (prohibition) (1925), Code Pleading in the Western States with Forms, Bancroft-Whitney Co. (1926), Gregory (common law) (1927), Bender (federal) (1929). Of General Business forms there are those of Ballard (1900), Dunlap (1913), Winslow (1915), James (option contracts) (1916), Jones (1919), Parker (1922), Gordon (1923), O'Malley (1924), Nichols (1925), Tiffany (1927), Office and Court, Dawson-Andrews (1928), Benoit (oil and gas, miscellaneous) (1926), Birdseye's Abbott (1924).

In addition to these, helpful forms are to be found in other treatises such as: Abstracts, Warvelle (1921), Admiralty, Benedict (1926), Appellate Jurisdiction, Loveland (1911), Bankruptcy, Black

(1926), Business Trusts, Dunn (1922), Chancery Practice, Henderson (1904), Clerk's Assistant, McCall (1902), Code Pleading in the Western States, Bancroft-Whitney Company (1926), Code Pleading, Practice and Forms, Sutherland (1910), Code Practice and Remedies, Bancroft-Whitney Company (1927), Commissioners' Practice, Thornton (1925), Conditional Sales, Haring (1927), Contracts, Elliott, Ballantine, Page, Williston (1913, 1921, 1922, 1922, respectively), Copyrights, Weil (1917), Corporate Foreclosures, Receiverships and Reorganizations, Tracy (1929), Corporate Management, Conyngton, Hillyer (1911, 1927, respectively), Corporations, Cook, Thompson, White, Fletcher, Parker (1923, 1927, 1927, 1928, 1929, respectively), Criminal Law, Byrne, Zoline, Kelley (1916, 1921, 1928, respectively), Departmental Organization and Practice, Thorpe (1925), Federal Appellant Jurisdiction and Procedure, Zoline (1928), Federal Criminal Code, Hopkins (1927), Federal Criminal Procedure, Byrne, Atwell (1916, 1929, respectively), Federal Procedure, Loveland, Foster (1920, 1922, respectively), Federal Tax Procedure, Bickford (1929), Indictments, Joyce (1924), Instalment Sales, Estrich (1926), Instructions to Juries, Sackett, Thompson, Blashfield, Randall, Branson, Graham (1908, 1912, 1916, 1922, 1925, 1926, respectively), Justice's Code, Hillyer (1912), Landlord and Tenant, McAdams (1910), Law of Oil and Gas, Thornton, Mills and Willingham, Benoit (1925, 1926, 1926, respectively), Manual of Federal Jurisdiction and

Procedure, Montgomery (1927), Marriage and Divorce, Keezer (1923), Mechanics' Liens, Rockel (1909), Minority Stockholders, Harvey, 2d edition (1929), Mortgage Foreclosures, Wiltsie (1927), National and State Prohibition, Thorpe (1926), Negotiable Instruments, Ogden (1922), Partnership, Rowley (1916), Pleading and Practice, Jury, Bates (1911, 1923, respectively), Practice and Procedure in the Supreme Court of the United States, Revised Edition, Robertson (1929), Probate, Ross, Billingslea, Church, Henderson (1908, 1919, 1926, 1928, respectively), Public Securities, Abbott (1913), Real Estate Agency, Walker (1922), Real Estate Titles and Conveyancing, North and Van Buren (1927), Real Property, Thompson (1924), Receivers, Clark (1918), Removal of Causes, Lewis (1923), Title to Real Property, Thompson (1919), Trade-marks, Hopkins (1924,) Water and Mineral Cases, Kerr (1912), Wills, Thompson, Page, Harrison, Tucker (New England) (1916, 1926, 1927, 1927, respectively), Workmen's Compensation, Boyd, Harper, Schneider (1913, 1920, 1922, respectively).

Good forms of pleadings are much used, despite the assertion that the task of stating a cause of action in plain and concise language, without unnecessary repetition, is a simple undertaking. In the case of Jungwirth v. Jungwirth, 115 Oregon, p. 668, Mr. Justice Belt said: "Praised be he who can state a cause in a clear, simple and succinct manner, and then stop."

In Shakespeare's "Love's Labour's Lost," when

Armado puts the question to Holofernes, "Monsieur, are you not lettered?" Moth interrupts with, "Yes, yes; he teaches boys the hornbook." The sort of book Moth had in mind was the hornbook of the "whining school-boy, with his satchel and shining morning face, creeping like snail unwillingly to school." It is described in the Century Dictionary as "a leaf or page, usually one containing the alphabet, the nine digits, and the Lord's Prayer, covered with transparent horn and fixed in a frame with a handle; formerly used in teaching children to read." Another definition given of a hornbook by the Century Dictionary is "a book containing the first principles of any science or branch of knowledge; a primer." It is interesting to observe the use of legal hornbooks in the Law Library. Very often a lawyer needs to refresh his memory on some legal subject, but has no time to read through many pages of a voluminous work. Then he turns to the hornbooks. For many years the West Publishing Company has been publishing what they call the "Hornbook Series," covering all the principal subjects of the law. These books may be read—to use automobile parlance—either in "high" or "low," as they contain a succinct statement of leading principles in black letter type and a more extended commentary elucidating the principles in ordinary type, besides notes and authorities.

The sight of a law book may suggest pleasant fiction. For instance, that volume of Tidd's Practice on the high shelf reminds a Dickens lover of the

interview between David Copperfield and the unpleasant Uriah Heep thus described:

> "Seeing a light in the little round office, and immediately feeling myself attracted toward Uriah Heep, who had a sort of fascination for me, I went in there instead. I found Uriah reading a great fat book, with such demonstrative attention, that his lank forefinger followed up every line as he read, and made clammy tracks along the page (or so I fully believed) like a snail.
>
> "'You are working late tonight, Uriah,' says I.
>
> "'Yes, Master Copperfield,' says Uriah.
>
> "As I was getting on the stool opposite, to talk to him more conveniently, I observed that he had not such a thing as a smile about him, and that he could only widen his mouth and make two hard creases down his cheeks, one on each side, to stand for one.
>
> "'I am not doing office work, Master Copperfield,' said Uriah.
>
> "'What work, then?' I asked.
>
> "'I am improving my legal knowledge, Master Copperfield,' said Uriah. 'I am going through Tidd's Practice. Oh what a writer Mr. Tidd is, Master Copperfield!'
>
> "'* * * 'I suppose you are quite a great lawyer?' I said, after looking at him for some time.
>
> "'Me, Master Copperfield?' said Uriah. 'Oh, no! I'm a very 'umble person.'"

That volume of Angell on Limitation may remind one that fiction can furnish no match for the romance of a human life. Abraham Lincoln, introduced to

the court in this room, owned a copy like this, and it recently sold at auction for Six Hundred Dollars.

That book—two shelves from the floor—scarcely noticed among its more handsomely dressed companions—contains the Constitutional decisions of Chief Justice Marshall, edited by John M. Dillon. Looking at it the question comes to our minds, "What would Marshall have done had he been surrounded by all these books in his youth and early manhood?" They might have kept him from more important things. His was not all book-learning. He got information from older and wiser folk as they conversed in his home or neighborhood. He learned valuable, practical things by association with the farmers in their fields, the ministers in their churches, the boatmen on the river, the soldiers in his military company, the lawyers in the courts, the statesmen in the legislative halls. The simple life of his day afforded time for thought. His journeys through the mazes of the silent forests gave him problems to work out for himself. If puzzled in his course, a running brook, or a star, or a bit of moss on the north side of a tree or stone gave him guidance. And so, gathering here and there, he stored his mind with those rich jewels of thought that shine through the pages of his decisions. This brings to mind these words found in the concluding paragraphs of "The Idea of a University," by Cardinal Newman, "How much healthier to wander into the fields, and there with the exiled Prince to find

'tongues in the trees, books in the running brooks * * * .' How much more genuine an education is that of the poor boy in the poem—a poem, whether in conception or execution, one of the most touching in our language—who, not in the wide world, but ranging day by day around his widowed mother's home, 'a dexterous gleaner' in a narrow field, and with only such slender outfit 'as the village school and books a few supplied,' contrived from the beach, and the quay, and the fisher's boat, and the inn's fireside, and the tradesman's shop, and the shepherd's walk, and the smuggler's hut, and the mossy moor, and the screaming gulls, and the restless waves, to fashion for himself a philosophy and a poetry of his own.''

Shelved with the legal treatises are the following books containing biographies of judges and lawyers: ''Men and Books Famous in the Law,'' by Frederick C. Hicks; ''Great Jurists of the World,'' by Sir John Macdonell; ''A History of the American Bar,'' by Charles Warren; ''A History of the Supreme Court of the United States,'' by Hampton L. Carson; ''Sketches of the Lives of the Chief Justices of the United States Supreme Court,'' by George Van Santvoord; ''Great American Lawyers,'' edited by William Draper Lewis.

Recently the students of Columbia University had the rare privilege of hearing six lectures on the Supreme Court of the United States delivered by Mr. Charles E. Hughes, an ex-Justice in full intel-

lectual and physical vigor. These lectures are now in the Law Library in a book entitled "The Supreme Court of the United States; its Foundation, Methods and Achievements." Lawyers enjoy this book. No doubt they have an increased admiration for their profession when reading therein the following concerning the personnel of the Constitutional Convention: "Of its fifty-five members, there were thirty-one lawyers, equipped not only with the technical learning of their profession but with a broad experience in practical affairs which gave them a seasoned judgment and the vision of statesmen."

Among the biographies of English jurists are: "The Lives of the Chief Justices of England," by John Lord Campbell; "Seventy-two Years At the Bar," by Ernest B. Bowen-Rowlands; "A Handbook of English Law Reports from the last quarter of the 18th to the year 1865, with Biographical Notes of Judges and Reporters," by John Charles Fox; "The Reporters," by John William Wallace, reporter of the United States Supreme Court from 1864 to 1875, containing much information about the early reports of England, Ireland, and Scotland. The reporters are chronologically arranged, with remarks upon their respective merits; "Life of Sir Henry Maine," by Sir M. E. Grant Duff; "Builders of the Law During the Reign of Queen Victoria," by Edward Manson; "Eminent British Lawyers," by Henry Roscoe; "The Lives of Twelve Eminent Judges of the 18th and 19th Centuries," by William C. Townsend.

For the lawyer seeking diversion from the grind of heavy law books there is delightful reading in books like "A Philadelphia Lawyer in the London Courts," by Thomas Leaming; "Ancient Curious and Famous Wills," by Virgil M. Harris; "Legal Antiquities," by Edward J. White; "Decisive Battles of the Law," by Frederick Trevor Hill; "Leading in Law and Curious in Court," by B. F. Burnham; "The Art of Cross-examination," "A Day in Court" and "Gentlemen of the Jury," by Francis L. Wellman; "The Show-up; Stories Before the Bar," by Charles E. Erbstein; "The Light Side of the Law," by George A. Macdonald; "The Prisoner at the Bar," by Arthur C. Train; "What the Judge Thought," by Edward A. Parry; and "Great Sayings of Great Lawyers," by G. J. Clark.

Let us see what some of the great lawyers said about books. Francis Bacon, who lived some three centuries ago, said: "Some books are to be tasted; others swallowed; and some few to be chewed and digested. Said Justice Joseph P. Bradley, of the United States Supreme Court: "Perfect familiarity, perfect mastery, of any one good book is a mine of intellectual wealth, not merely,—not so much the matter which is thus made one's own, as for the vocabulary, the diction, the style and the manner of expression which is mastered and indelibly fixed on the mind." On the other hand, hear what Rufus Choate said in an address on the Smithsonian Institute, in the United States Senate, in advocating a great library for America: "It has been often said

that 'Gibbon's History' could not have been written here for want of books. I suppose that Hallam's 'Middle Ages' and his 'Introduction to the Literature of Europe' could not. Irving's 'Columbus' was written in Copenhagen. See how this inadequate supply operates. An American mind kindles with the subject; it enters on an investigation with a spirit and with an ability worthy of the most splendid achievement; goes a little way, finds that a dozen books—one book, perhaps—are indispensable, which cannot be found this side of Gotengen or Oxford; it tires of the pursuit, or abandons it altogether, or substitutes some shallow conjectures for a deep and accurate research, and there is the end."

In mentioning the foregoing books—those in the Law Library—no attempt has been made to give a complete list of the important books in the treatise alcove. Our aim has been to give the reader somewhat the impression of the collection that he would have were he standing in this room, glancing here and there at the books upon the shelves. Here hundreds of useful books are unobserved, to say nothing of the numerous treatises shelved in the States' collections.

As it is important, it is repeated here what is said in the preface of this book: "The issue of law books is so rapid that changes are constantly occurring in rating their value. What is good today may be bettered tomorrow. Therefore any descriptive work of law books should always be used with the most recent issues of the law-booksellers' catalogs. Of course,

there are some books so firmly based that they withstand the shocks of Time, but these may be found to have been made more helpful by later editings."

When a lawyer wishes to get away from the great mass of case law, and feels that he has about exhausted the text-books for principles, he often discovers helpful material in well-written articles in the legal periodicals. The bound periodicals are shelved in a room to the right of the entrance to the library. This room is small, about twelve feet square; but it is historically great, for beneath its south wall is the cornerstone of the Capitol of the greatest nation on earth. The periodicals shelved in this room are as follows: "American Bar Association Journal," "American Law Register," "American Law Review," "American Political Science Review," "Bench and Bar," "California Law Review," "Central Law Journal," "Columbia Law Review," "Compensation Review," "Cornell Law Quarterly," "Current Law," "Georgetown Law Journal," "Green Bag," "Harvard Law Review," "Illinois Law Quarterly," "Illinois Law Review," "Journal of American Institute of Criminal Law and Criminology," "Juridical Review," "Washington Law Reporter," "West Virginia Law Quarterly," "Yale Law Review," "Law Magazine and Review," "Law Quarterly Review," "Michigan Law Review," "New Jersey Law Journal," "Texas Law Review," "University of Pennsylvania Law Review," "The Virginia Law Register" (old and

new series), "Virginia Law Review," "Workmen's Compensation Law Journal."

Also we find here current nnmbers of the "Law Journal" and "The Law Times," published in London; but the bound volumes of these are kept in the Library of Congress, where, of course, there are legal periodicals not on the Law Library shelves. Of the British law periodicals in the Law Library "The Juridical Review," published in Edinburgh, is delightfully unique. Open its volumes almost anywhere and you are carried back into the days of romance described by the famous Scotch lawyer story-tellers, Sir Walter Scott and Robert Louis Stevenson. The latter made good use of Howell's State Trials in writing his exciting story, "Kidnapped." Also he used other law books to advantage for he passed the examination for the Scots Bar, shown by the fac simile of a remarkable note he penned to Mrs. Sitwell (later Lady Colvin) appearing on page eight of Vol. 32 of "The Juridical Review." This note, with "Advocates Library" stamped upon it, reads: "Madonna, Passed. Ever your R. L. S." Stevenson's joy at his success is shown by the fact that in writing the "S" he brings its end around and about in many widening circles.

We referred to citations of treatises by Mr. Charles E. Hughes in his brief in the Beech-Nut case. It is interesting to see that in that brief he also cites an article on trade symbols, published in the "Columbia Law Review."

The value of the legal periodicals is greatly in-

creased by an excellent set of indices shelved near by.

In 1888, Judge Leonard A. Jones published an index covering the legal periodicals of America, Canada, England, Scotland, Ireland and some of the British colonies. A second volume published in 1899 brought the index down to that year. These indices are carried forward to the year 1923 by the two volumes published in 1919 and 1924 by Frank E. Chipman. Another index to these periodicals is one published by the American Association of Law Libraries, the first volume of which began in January, 1909. The contents of these last mentioned volumes first appear as quarterly issues and in connection with the Law Library Journal. At the end of the year the two are bound together. Besides the index to articles there is one of the authors and of the subjects treated. There is also a list of the cases commented upon. In the Law Library Journal, bound with the Index to Legal Periodicals, is a list which gives the number of the last issued volume of the state reports and the date of the last session of the State's legislature. An index to current legal periodicals is found in the Central Law Journal.

CHAPTER VI

British Laws, Reports and Digests

Adjoining the treatise alcove is one in which the British books are shelved, under the same arrangement as that for the states, the laws, the reports and the digests. Gazing at the ancient statute books our thoughts go back through time and space to the ancestors of the sheep, in whose hides these laws are bound. In our imagination, we see them grazing peacefully in a verdant meadow, some twenty miles west of the City of London. Runnymede, as was called this place, must have been very beautiful in the summer of 1215; and it is likely that the barons then gathered there would have heartily approved the lines in "The Vision of Sir Launfal," running:

> "And what is so rare as a day in June?
> Then, if ever, come perfect days;
> Then Heaven tries the earth if it be in tune,
> And over it softly her warm ear lays."

for it was on the15th day of that month and year that these bold Englishmen saw King John sign and seal the Magna Charta. It was not such a perfect day for the king, who, earlier, is said to have cried out, "Why do not the barons, with their unjust exactions, ask my kingdom?" Being so close to the thing, these people did not realize how far-reaching would be the product of their work. Mr. William Sharp McKechnie, in his book entitled "Magna

Charta, a Commentary on the Great Charter of King John," says, "The importance of the Charter for the men of 1215 did not lie in what forms its main value for the constitutional theorists of today. To the barons at Runnymede its merit was that it was something definite and utilitarian—a legal document with specific remedies for current evils. To English lawyers and historians of a later age it became something intangible and ideal, a symbol for the essential principles of the English Constitution, a palladium of English liberties."

We find the Magna Charta in the statute books of some of the states. This is altogether as it should be, for, as Mr. Elihu Root said in "The Lawyer of Today," "The idea embodied in our constitutions, which are but the expression of the conception of individual liberty that has grown through a thousand years of Anglo Saxon freedom, proved vital to protect the individual against the tyranny of government." Only through the acquaintance with the old laws can a modern lawyer fully appreciate those of our day. Dr. William Stubbs says in the preface to his work on the constitutional history of England, "The history of institutions * * * has a deep value and an abiding interest to those who have courage to work upon it. It presents in every branch a regularly developed series of causes and consequences, and abounds in examples of that continuity of life, the realization of which is necessary to give the reader a personal hold on the past and a right judgment of the present. For the roots of the present

lie deep in the past, and nothing in the past is dead to the man who would learn how the present comes to be what it is."

The Statutes of Great Britain and Ireland and the Public General Statutes begin with the Magna Charta and run through various publications down to the year 1868. In the laws passed more than six centuries ago, we are surprised to find how well they would serve us today, with slight changes. Our newspapers are filled with stories of gun-men, hijackers, and the like, committing atrocious deeds and then escaping in highpowered automobiles under our very noses. Our peace officers, who often risk their lives in pursuit of these criminals, with no assistance of a posse comitatus, would welcome a law, we believe, modeled after this one passed in the 3d year of the reign of Edward I (1275), and reading in part as follows: "And forasmuch as the Peace of this Realm hath been evil observed heretofore for lack of quick and fresh suit making after felons in due manner and namely because of franchises, where felons are received; it is provided, That all generally be ready and apparelled, at the commandment and summons of Sheriffs, and at the cry of the country, to follow and arrest felons, when any need is, as well within franchises as without; and they that will not so do, and therefore be attainted, shall make a grievious fine to the King." And, as a blow at the automobile banditti, and for the benefit of automobile tourists, how well would fit in our statutes one like this, passed in 1285:

"Highways leading from one Market Town to another shall be enlarged, so that there be neither Dyke, Tree, nor Bush, whereby a man may lurk to do hurt, within two hundred feet of the one side, and two hundred feet of the other side of the way." Whether due to a well-organized lobby of highwaymen or to an increased value of land adjacent to the road, we cannot say; but for some unknown reason the law just quoted was repealed in the reign of George III.

In the third volume of the Statutes of Great Britain and Ireland, edited by John Raithby, printed by George Eyre and Andrew Strahan, London, 1811, at page 224, is found the famous Statute of Uses. This act was passed in the 27th year of the reign of Henry VIII, being Chapter 10. The marginal notes show the objects of the act: "How by the Common Law lands ought to be transferred from one person to another.—Several inconveniences ensuing by conveyance of lands to uses, and by the devising them by wills.—The possession of lands shall be in him or them that have the use.—So where divers are seized to the use of one or some of them.—Saving of the right of strangers.—Saving of the right of the feoffees to use.—Where land is assured to the use, that rent should be paid thereout to some other, possession of the rent shall be in them that have the use.—A woman having a jointure shall not have dower of her husband's lands.—A woman shall be endowed, if evicted of her jointure.—A jointure after marriage may be taken or refused by the wife.

—This statute shall not extinguish any recognizance, etc.—No fines for alienation, reliefs or harriots payable to the King till after 1 May, 1536, under this act.—Cestuy que uses may take all such advantages as his feoffees might have had."

Nearly three hundred years after the passage of this act, the question as to whether it was in force in the State of West Virginia was discussed in the case of *C. T. Blake et al., v. Sue O'Neal et al.,* 63 W. Va. 483. The court held that the English statute of uses was not in force in the State of Virginia after the year 1792. This case is reported in Vol. 16, page 1147 of L. R. A. (N. S.) and with it a lengthy note on the question of the statute of uses in the United States. In the case of *Marshall v. Fisk,* 6 Mass. 24, it is said: "The statute of uses being in force in England when our ancestors came here, they brought it with them as an existing modification of the common law, and it has always been considered a part of our law." In the case of *Johnson v. Johnson,* 7 Allen 196, 83 Am. Dec. 676, in referring to this old statute, the court said it is "a part of the common law of this commonwealth."

At page 751 of Vol. 4 of the Statutes of Great Britain and Ireland is found an act entitled "An Act for Limitation of Actions, and for Avoiding Suits at Law," being chapter 16 of 21 James I (1623). Some eighty years before the passage of this law, by chapter 32 of Henry VIII, an attempt had been made at legislation on limitation, but the statute was not broad enough to cover personal ac-

tions. The act of James I extended to personal actions and also shortened the time for the bringing of suits. Most of our state laws on this subject have been modeled from it. Anything which enabled a debtor to climb out of reach of a creditor has received, of course, some rather vicious blows from the thwarted pursuer. In defending the Statute of Limitations, Justice Joseph Story, in *Spring v. Gray,* 5 Mason 523, said: "I own myself to be one of those who consider the statute of limitations a highly beneficial statute, and entitled, as such, to receive, if not a liberal, at least a reasonable construction, in furtherance of its manifest object. It is a statute of repose; the object of which is to suppress fraudulent and stale claims from springing up at a great distance of time, and surprising the parties or their representatives, when all the proper vouchers and evidences are lost, or the facts have become obscure from the lapse of time or the defective memory, or death, or removal of witnesses. * * * It appears to me also, that it is the duty of the court to adhere to the very terms of the statute, and not upon imaginary equitable considerations, to escape from the positive declarations of the text."

At page 430 of Vol. 5 of the Statutes at Large we find the celebrated Statutes of Frauds, being chapter 3 of 29 Charles II. Mr. James Schouler, in an article published in Vol. 18 of the American Law Review, page 442, says: "The Act 29 Car. II, ch. 3, 'for the prevention of fraud and perjuries,' remains, after the abundant experience of more than two

centuries, the most remarkable embodiment of purely legal reforms which the history of our common law affords. It has modified the judicial procedure of the courts throughout Great Britain and the United States, and regulated modern methods and dealings in the most momentous affairs of common life. Though not steadily and consistently administered by the courts in some of its leading provisions, nor free in certain parts from verbal infelicities of expression, the statute itself, as originally framed, has suffered very little change of language in all these years, notwithstanding its re-enactment by so many independent legislatures; while the wisdom which inspired its policy was certainly profound and penetrating."

In this Vol. 5, at page 458, there is an act entitled "An Act for the better securing the Liberty of the Subject, and for Prevention of Imprisonments beyond the Seas," being Chapter 2, of 31 Charles II. This is the famous Habeas Corpus Act. On June 24, 1676, one Francis Jenks, a linen draper and member of the Common Council of London, made a speech in Guildhall in what was charged as being a most seditious and mutinous manner, and for it was thrown into prison. Despite the efforts of his friends to have him released, Jenks remained a prisoner until August. His case caused a great stir both in and out of Parliament, and is said to be one of the causes responsible for the passage of the Habeas Corpus Act. About the time that Jenks was thus unkindly treated, the Earl of Shaftesbury

was committed to the Tower, where for about a year he had time and cause to reflect deeply on the abuses of English liberty; and it is said, without definite proof, that the Habeas Corpus act was drafted by him while in prison. This act received royal assent on the 26th day of May, 1679. Regarding it Macaulay, in his History of England, Vol. 1, page 248, says, "From the time of the Great Charter, the substantive law respecting the liberty of Englishmen had been nearly the same as at present; but it had been inefficacious for want of a stringent system of procedure. What was needed was not a new right, but a prompt and searching remedy; and such a remedy the Habeas Corpus Act supplied. The King would gladly have refused his consent to that measure; but he was about to appeal from his Parliament to his people on the question of the succession; and he could not venture, at so critical a moment to reject a bill which was in the highest degree popular."

About the time the Habeas Corpus Act was passed, Samuel Pepys was writing his diary which has become so famous. That he was pleased at being in the company of great people is shown by these extracts from his diary: "Aug. 27, 1661. My wife and I to the theatre, and there saw 'The Jovial Crew,' where the King, Duke and Duchess, and Madame Palmer, were; and my wife, to her great content, had a full sight of them all the while." "Sept. 7th. Having appointed the young ladies at the Wardrobe to go with them to the play today,

my wife and I took them to the Theatre, where we seated ourselves close to the King, and Duke of York, and Madame Palmer, which was great content; and, indeed, I can never enough admire her beauty." "Sept. 11th. Walking through Lincoln's Inn Fields, observed at the Opera a new play, 'Twelfth Night,' was acted there. So I, against my own mind and resolution, could not forbear to go in, which did make the play seem a burthen to me; and I took no pleasure at all in it; and so, after it was done, went home with my mind troubled for going thither, after my swearing to my wife that I would never go to a play without her."

No doubt it would have given Pepys great content had he known that his reference to a discourse on the compiling of the King's laws would one day be printed in the statute books. On the title page of "Statutes of Practical Utility passed in 1908," Aggs' edition, Pepys is quoted thus: "Mr. Prin * * * till company come, did discourse with me a good while about the laws of England, telling me the main faults in them; and, among others, their obscurity through multitude of long statutes, which he is about to abstract out of all of a sort; and as he lives, and Parliaments come, get them put into laws, and the other statutes repealed, and then it will be a short work to know the law."

As the statutes of Great Britain are cited by the reigning year of the sovereign, and not the year of Our Lord, a lawyer sometimes has to refer to a table of Regnal Years. Among the books wherein this

table appears are Bouvier's Law Dictionary, Cyclopedic Law Dictionary (under the word "King"), Rapalje and Lawrence's Law Dictionary, Soule's Lawyer's Reference Manual of Law Books and Citations (page 68), Chitty's Statutes of Practical Utility, Vol. 16, page 53.

Each year there is published by the British Government two volumes that are much used in connection with the statutes. The first of these contains a chronological table of all the statutes from 20 Henry III (1235) down to the present time. In the printing of this table the page is divided into three columns; the first containing the year, statute and chapter; the second, titles in index, or (if in italics) titles of acts not in force; the third, how repealed or otherwise affected. To illustrate the use of this table, let us take a statute passed 643 years ago, 13 Edward I, chapter 47, which provided "a penalty for taking of Salmons at certain Times of the Year." We will find this statute in its chronological order in the first column of this table; in the second column is the brief title "Salmon preservation"; in the third column we find "r., 24-5 V. c. 109, S. 39," meaning that by section 39 of Chapter 109 passed by Parliament in the 24th and 25th reign of Queen Victoria (1861), this statute, passed 576 years before, was repealed. The second volume of this work contains an index to the statutes in force, arranged alphabetically according to subjects.

It would be interesting to know to what extent our laws have been taken from those of England. In the

year 1807 the Legislature of the State of Pennsylvania passed an act "Enjoining certain duties on the Judges of the Supreme Court," and reading as follows: "Section 1. Be it enacted, etc., That the Judges of the Supreme Court are hereby required to examine and report to the next legislature, which of the English Statutes are in force in this Commonwealth, and which of those statutes in their opinion ought to be incorporated into the statute laws of this commonwealth." The following year the judges submitted their report, which is printed as an appendix to Vol. 3 of Binney's reports. The judges recommended the incorporation of parts of 166 English Statutes, the first mentioned being 9th Henry III, chap. 7, "A widow shall have her marriage, inheritance and quarantine." The judges' opinion on this is, "That part only of this statute is in force which provides, that a widow shall tarry in the chief house of her husband forty days after her husband's death. Within which days her dower shall be assigned her." In the letter sent with their report, the judges said, "In perusing the statutes referred to in the report, the legislature will perceive, that in many of them the language is uncouth, and unsuited to our present form of government." We wonder what these judges would have thought of this definition in the Darlington Improvement Act of 1872, cited by Lord Thring in the introduction to his book entitled "Practical Legislation"—"The term new building means any building pulled or burnt down to or within ten feet from the surface of

the adjoining ground." Another ludicrous instance of drafting mentioned by Lord Thring is this amendment proposed by a Queen's Counsel in 1865: "Every dog found trespassing on inclosed land unaccompanied by the registered owner of such dog or other person who shall on being asked give his true name and address, may be then and there destroyed by such occupier or by his orders."

It would seem that no dosage of punctuation marks could cure a sentence so crippled. Mr. Ardemus Stewart, in an article on the punctuation of statutes as affecting their interpretation, Central Law Journal, Vol. 34, page 253, says: "As a general rule, punctuation has no effect on the interpretation of deeds, statutes, or any legal writing whatever. * * * When the first statutes of the Kingdom of England were enacted, the art of punctuation was yet in its infancy. Mr. Barrington informs us, in his observations on the statutes (5th ed. 438, note x), that the full point was not known till the time of Dante, and suggests that the better way of printing statutes would be without the use of stops—a suggestion which would certainly prevent the raising of any question on the punctuation, and save the courts the trouble of repeating the rule."

Since 1866 the laws are to be found in the Law Reports Statutes, published under the direction of the Incorporated Council of Law Reporting, of which Sir Henry Fielding Dickens, son of the famous novelist, Charles Dickens, is the chairman. Sir Henry was but a year old when his father published

"David Copperfield" (1850). He now presides over a court in the "Old Bailey" where he probably sees people much like some of those at the trial of *Bardell v. Pickwick,* delightfully described in "Pickwick Papers." Judge Dickens, of course, is entirely unlike Justice Starleigh, who "summed up in the old established and most approved form. He read as much of his notes to the jury as he could decipher on so short notice, and made running comments on the evidence as he went along. If Mr. Bardell was right, it was perfectly clear Mr. Pickwick was wrong, and if they thought the evidence of Mrs. Cluppins worthy of credence they would believe it, and if they didn't why they wouldn't. If they were satisfied that a breach of marriage had been committed, they would find for the plaintiff with such damages as they thought proper; and if on the other hand it appeared to them that no promise of marriage had ever been given they would find for the defendant with no damages at all."

Very soon after acts are passed by Parliament they are published in the advance pages of the Law Reports Statutes, and bound with a title page and index furnished by the publishers at the end of each year. The last complete volume of the Law Reports Statutes is No. 65, for the year 1928. During the period of time covered by these volumes—from 1866 to 1929—the United States Statutes at Large (public laws) filled 32 volumes; but these are more than twice as thick as the English volumes.

In the back of the volumes of the Law Reports

Statutes there is a table showing the effect of the year's legislation upon former acts. This table is in four columns; in the first of which are the acts of former sessions arranged chronologically; the second column gives the subjects or short titles of the acts; the 3d column shows how these acts were affected by current laws; the 4th column cites current act causing change.

On the shelf, following the Law Reports Statutes, are many volumes of the 2d edition of "The Statutes Revised, printed by authority." The publication of this revision was looked after by the Statute Law Committee formed by the Lord Chancellor in 1868. This set begins with the 20th year of the reign of Henry III (1235). The text of this edition down to the end of the reign of Queen Anne was based on the edition known as "Statutes of the Realm," printed from original records and authentic manuscripts.

Shelved near these "Statutes Revised" is a 16-volume set of Chitty's Statutes of Practical Utility (6th edition, by W. H. Aggs), covering the period from 1235 to 1910. Annual volumes bring this work down to date.

For the lawyer investigating English laws there is a 31-volume set, generally known as "Halsbury's Laws of England." According to the title page of this work it is "a complete statement of the whole law of England," by the Right Honourable the Earl of Halsbury and other lawyers. In the introduction, the Earl takes a rap at those lawyers who love

to quibble, and on a question of a clarification of the law, quotes Cicero as saying that the laws themselves were clear enough, "but unhappily lawyers prefer, for the sake of raising objections, and in order to show that they may be, or appear to be, more knowing than they are, raise difficult points; and our lawyers, I say, do divide the legal doctrine, which is essentially simple, into an infinite variety of technical distinction." In describing this monumental work on English laws, Lord Halsbury says it "is not a mere encyclopedia, it is not a mere collection of cases, but a number of treatises composed by learned lawyers, supported by the decisions of the great judges who have from time to time adorned the English Bench." Annual supplemental volumes keep this work to date. In his book entitled "The Story of My Life," Sir Edward Clarke said that Lord Halsbury "was by his industry (I am speaking of his early years in silk), by his great knowledge of law, his strong masculine sense, his indomitable courage, and his excellence in the art of arranging and narrating facts, one of the most formidable of advocates. His scrupulous and absolute fairness gave him great influence with juries, and his reply in a criminal case was always worthy of study and an imitation. Closely associated with him as I was for many years, I have not seen much of him in private life since he became Lord Chancellor, but it has been pleasant to see my old friend and companion develop into the greatest judge before whom I ever practiced."

When a lawyer is taken to task for defending a bad-looking cause, he should recall these words of Lord Halsbury, in the London Law Notes, for October, 1899: "A thesis has been propounded on the other side more extravagant, and certainly more impossible of fulfillment; that is, that an advocate is bound to convince himself, by something like an original investigation, that his client is in the right, before he undertakes the duty of acting for him. I think such a contention ridiculous, impossible of performance, and calculated to lead to great injustice. If an advocate were to reject a story because it seemed improbable to him, he would be usurping the office of the judge, by which I mean the judicial function, whether that function be performed by a single man, or by the composite arrangement of judge and jury which finds favor with us. Very little experience of courts of justice would convince any one that improbable stories are very often true, notwithstanding their improbability."

Following the laws of England there are more than three thousand volumes of reports of British cases, shelved alphabetically under the names of the reporters. There are also the English Reports Full Reprint, the Irish Reports, the Jurist, and the Law Journal Reports, the Law Reports, the Law Times Reports and the Times Law Reports. The Year Books are kept in the Law Division of the Library of Congress; but as they may be obtained by the readers in the Law Library, we shall mention them

in connection with the reports. As to the value of the Year Books, opinions are divided.

Mr. Edward Manson, in an article in Vol. 10 of the Law Quarterly Review, p. 63, says: "* * * those Year Books rich with the spoils of time to the student of legal history, to the ordinary reader an arid waste of legal technicalities." Professor Eugene Wambaugh, coming to the defense of the Year Books, says in his "Study of Cases," § 98, they "are the work of the skilled lawyers; and the reports of cases, when complete, present an adequate view of the pleadings." In the preface to "Reports of Cases argued and determined In the Court of King's Bench in the Nineteenth, Twentieth, and Twenty-first years of the Reign of George III," by Sylvester Douglas, Esq., of Lincoln's Inn (3d edition, London, 1790), we find, following a reference to the information gathered by the early reporters, this statement: "The most ancient compilations of this sort were the work of persons specially appointed for the purpose. In what particular manner they exercised their function, how far the courts superintended, or the judges assisted or revised their labours, no where appears; and indeed almost everything relating to them is involved in so much obscurity, that I believe their very names are totally unknown. It is probable, however, that the contemporary judges, and those who immediately followed them, had satisfactory reasons for confiding in the accuracy of those reporters, since their writings, called the Year Books, have always possessed

a degree of traditional weight and authority superior to what is allowed to any subsequent reports."

The Law Library is a practical collection of law books for practical lawyers who are not concerned whether a book is old or new, whether it is extremely rare, very rare or just plain rare. For the practical lawyer working on his case, an authentic copy of a rare book is just as good a tool as the original; and, as a matter of fact, he would rather have a substantial well printed copy, be it ever so new and plentiful, than a rare first edition whose pages are flimsy and dimmed by age.

In the year 1585 there was published a book, the title page of which reads: "Les Ans du Roy Richard le Second. Collect 'ensemble' hors les Abridgements de Statham, Fitzherbert et Brooke. Per Richard Bellewe, de Lincolns Inne." With a full appreciation of the fallibility of man, Bellewe in the preface of this work beseeches his readers "that where you shall finde any faultes, which either by my infufficiency, the intricateness of the worke, or the Printer's recklefnes are committed, either friendly to pardon, or by fome meanes to admonifh me thereof." A first edition of this book would be highly prized by a bibliophile, but for a practical lawyer the reprint from the original edition is more satisfactory. Such is found in the volume published by Stevens and Haynes, Bell Yard, Temple Bar, London, 1869. In the advertisement in this book the publishers say: "Of Richard Bellewe, the author of this work, very little is known beyond the fact that he was a member

of an Irish family, and was admitted into the Society of Lincoln's Inn, 5th June, 1575; there is however no entry of his call to the bar by that society. That Bellewe was a diligent student is evidenced by his collection of Brooke's 'New Cases,' temp. Henry VIII, and this volume, which has been designated the Year Book of Richard II."

We would not leave the impression that there are no old English books in the Law Library, for there are. For instance, among the first, following the statutes, is one containing the reports of cases by Edmund Anderson, Knight, Chief Justice of the Bench of Common Pleas, which was printed in London in the years 1664-65, covering the period from 1534 to 1604. This old book is in French, and is made up of two volumes separately paged. The second part, with cases in the Court of Wards, was printed in 1665. Shelved next to Anderson's reports are the reports of William Benloe in one volume, printed in London "by the assigns of R. and E. Atkins, Esquires, for Samuel Keble at the Turk's-Head in Fleet-street, Daniel Brown at the Black-Swan and Bible without Temple Bar, Isaac Cleave next Serjeant's-Inn in Chancery-lane, and William Rogers at the Sun in Fleet-street. MDCLXXXIX." That was the year the people of Boston rose in their might against Governor Andros, and sent him off to England, and is "a good while back," as time is reckoned here in America. Opposite the title page of Benloe's reports appears the following: "I have perused these reports of Serjeant Benloe,

and I believe them to be the original manuscript; being taken with great judgment, and having the Records at large: and finding onely a few short cases of them printed at the end of Mr. Ashe's Tables of Equity in 8°, and which are the same in Folio, therefore I do allow and approve of the whole to be printed. Serjeant's-Inn in Chancery Lane, Jan. 12, 1687. R. Wright.

> We likewise allow and approve of the printing of Serjeant Benloe's Reports and Pleadings.
>
> Serjeant's-Inn in Fleet-street, Jan. 25, 1687.
> Edw. Herbert. Edw. Atkyns."

In this same volume are bound the reports of cases in the Court of Common Bench in the reigns of Henry VIII, Edward VI, Mary and Elizabeth, collected by William Dalison, one of the justices of the King's Bench.

But a few shelves distant from Benloe and Dalison's reports is a book printed in the year 1688, containing the reports of Edward Bulstrode, of the Inner Temple, "of divers resolutions and judgments given with great advice and mature deliberation by the Grave, Reverend, and Learned Judges and Sages of the Law, of Cases and Matters in the law; with the reasons and causes of their said Judgments, given in the Court of King's Bench, in the time of the reign of King James I, and King Charles I."

Should it be imagined there was not in those olden

times a multiplicity of reports to the bewilderment of the practitioner, hear what Bulstrode gives in his "dedicatory epistle" to the Right Honorable Sir Bulstrode Whitlock, Knight, as one of his reasons for issuing these reports: "And a principal reason, which did most of all induce me thereunto was this, that I having seriously viewed, and perused the multiplicity of Reports (of these late times, more than before) since those Herculean Labours, and many volumes, of learned Reports, and Institutes, published by that Grave, and learned Chief Justice, Sir Edward Coke, who may well and truly be stiled the Father of the Law (never any before him having done the like) and whose memory will never be forgotten. I say when I had reviewed these late and flying Reports (most of them being incerti temporis, and of late time published) not by the Authors themselves, (who were well known to be profoundly Learned) nor yet by them, during their lives, fitted and prepared for the Press, but after their death, thus published by others; and these Reports not without many gross mistakes in them, whereby they do rather cherish than extinguish Law Suits; whereas those Grave and Learned Men, whose Names they bear, did imploy their labours for the quieting and laying asleep all Controversies, and Questions in the Law, and for the cutting off and lessening Law Suits, which should be the principal aim and intention of all ingenuous professors of the Law, that we may not consencere litibus. The due consideration of this, made me the more willing, now

in my life time, (and so long as it shall please God to enable me) to publish the fittest and choicest Cases, out of those Reports, which I have with no small care, labour and pains collected together."

Another old book is one containing the "reports of several special cases argued and resolved in the Court of Common Pleas: in the XVI, XVII, XVIII, and XIXth years of King Charles II in the time when Sir Orlando Bridgman sate Chief Justice there. To which are added, some cases adjudged in the time of Chief Justice Vaughan, never before printed. By S. C. of the Inner-Temple, Esquire." This "S. C." was one Samuel Carter, who in presenting his reports to the barristers and students of the honorable Society of the Inner Temple, in the year 1687, gives this good advice on the manner of presenting arguments "For nothing spoils a good argument more, than to muster up many impertinent citations a la vole, and at random. In the arguments of Chief Justice Bridgman, methinks I find that eviceratio causae, as the Roman orator calls it, An exact anatomy of the case, and a dextrous piercing into the very bowels of it: A sudden and immethodical plunging over head and ears into an argument, is as rude as unprofitable; and it was no small commendation of an eminent professor of our law, as one that was advanced to the highest office a person of that profession can be capable, that he always argued like a lawyer, and a gentleman."

Looking at the page opposite the lines just quoted we find there in the table of cases, "*Martha Eliots*

Case'' interesting and short enough to give in full, as a sample of the cases reported about the year 1678. (In the index the name is spelled ''Eliot,'' in the report ''Elyot.'')

''Martha Elyots Case. Bridgman Chief Justice.

''A woman born deaf and dumb comes before me to levy a Fine. She and her three Sisters have an House and Land. An Uncle hath maintained her, and taken great care of her, and he is to buy the House and Land of them, and he agrees to maintain her, if she will pass her Land for security. As of her intelligence, the Sisters say, she knows and understands the meaning of all this. I demanded what sign she would make for passing away her Lands, and as it was interpreted to me, she put her hands that way where the Lands lay, and spread out her hands. It being a business of this nature, and for her own good, I thought fit to Communicate it to you. It was one Hills case. Hill was born deaf and dumb, and he was brought before Judge Warburton to levy a Fine. Judge Warburton would do nothing till he had acquainted his Brothers, he examined him, and found him intelligent, and so he took the fine.

Archer.—The Rule in Law is, That in Fines and Feoffments, etc., if there is a good Intelligence, they may do such acts, they may be admitted to make Contracts for their good: They are admitted upon Examination to marry, and upon Examination to receive the Sacrament. They may make Contracts

for their Persons, why not for their lands? I conceive it may be done, and your Lordship may take the Fine. Tirrell and Brown agreed, and the Fine was taken."

Now let us see how "the roots of the present lie deep in the past." In the State of Michigan, some three hundred and thirty years after Martha Eliot's case was decided, August Alexier, deaf and dumb, and William Matzke, entered into a contract whereby Alexier agreed to work for Matzke for an indefinite period, the consideration being that Matzke would furnish Alexier food, clothing and necessary care while with him. The contract signed by the parties also provided that in the event Alexier should withdraw from this agreement, he would make no demand for his services, either rendered or to be rendered. Wearying of his undertaking, Alexier left Matzke, and later sued for wages, claiming he did not understand the contract he had signed. A sympathetic jury awarded him $515.00. An appeal was taken; and the Michigan Supreme Court said that the record, taken as a whole, showed that the deaf and dumb plaintiff did not lack intelligence, that he understood the contract, and that a verdict should have been instructed for the defendant. This case, reported in the American and English Annotated Cases, Vol. 14, page 52, is followed by many notes, one of which refers to Martha Eliot's case.

Our last exhibit, offered in proof of the claim to having old books, is Keilwey's reports, edited by

John Croke, and printed in London in the year 1688. This volume, sometimes cited as Croke, is in old French. For the reader having difficulty in the translation of such works, there is a dictionary of the Norman or old French language, by Robert Kelham, of Lincoln's Inn. Also we might add here that this. dictionary contains the laws of William the Conqueror. "The laws of William (being the same, as the Title imports, which Edward the Confessor observed before him) in three columns; viz: The Laws themselves in the Norman language, with Dr. Wilkin's Latin translation of them in opposite columns; and an English translation in another column, with notes; and also references from each law, to the Anglo Saxon Laws. The 52d, 55th, 58th, 59th and 63d Laws, in Latin, of William, which, towards the latter end of his reign, he added to those of Edward the Confessor, and by which he established the Feodal System here; translated into English, with occasional notes."

A little further along the shelves we come to the reports of Sir Edward Coke, Knight, this being "a new edition" by John Henry Thomas and John Farquhar Fraser, published in London in 1826, in six volumes. In Vol. 1, page 219, of this set is reported Shelley's Case. For an interesting discussion of this famous case the reader will turn to the opinion of Judge Ladd in the case of *Doyle v. Andis,* 127 Iowa, page 36. Shelley's Case caused a great stir throughout England about 1580, and then the agitation, according to Judge Ladd, "seems to have

subsided somewhat for nearly one hundred years, when it was awakened in 1770 by *Perrin v. Blake.* That case arose in Jamaica, and was brought before the Privy Council of England at a time when Lord Mansfield was the only Lord who attended. He deemed the question involved of too great importance to be decided by his single opinion, and a feigned case was prepared and submitted to the King's Bench. After being twice argued, three of the judges, including Mansfield, agreeing that the case was within the rule in Shelley's Case, were for repudiating it, while one, Yeates, was for applying it. A fierce controversy arose. Pamphlets were written assailing and in defense of Lord Mansfield, one of those in his behalf evoking a bitter reply from Mr. Fearne, author of the great work on Remainders, and Junius, in his envenomed letters, accused him of attempting to subvert the laws of England. It is said by Lord Campbell in his 'Lives of the Chief Justices' that the bar of the entire kingdom was divided into factions for several years, known as 'Shelleyites' and 'Anti-Shelleyites.' ''

Those who find the rule in Shelley's Case too hard for them, may find in the note on the rule in Shelley's Case in L. R. A., hitherto mentioned, these comforting lines: ''A few years ago, a young lawyer, seeking more light upon the subject, addressed a request to the American Law Review, then edited by Seymour D. Thompson and Leonard A. Jones, both eminent law writers, asking for 'a plain, common-sense, easy-to-be-understood definition of the

rule in Shelley's Case,' and received an answer as follows: 'Not having the capacity to understand the rule in Shelley's Case, or to acquire an understanding of it by any degree of diligence within the limits of a lifetime, we find ourselves unable to comply with the modest request of our esteemed correspondent.' "

Hitherto we mentioned Pepys' Diary, the charm of which lies in its naturalness of expression. Had its author known it would be read by millions, he would have ruined its exquisite flavor in an attempt to satisfy a pedantic palate. So the old reporters, without a thought of future critics, set down happenings in court as they saw and heard them, thus revealing charming bits of life which the professional historian submerged in dull ink.

"The old reporter" says Mr. George F. Deiser, in an article, "Some ancient reporters and an Ancient Action," University of Pennsylvania Law Review, Vol. 57, page 1, "was an artist—picturing one phase of his daily life—and alternately through his quaint Norman French diction peer at us chicanery, strength, weakness, fraud, oppression, love, hate and rude satire, not in acceleration or retardation of a dramatic movement, not in a fixed order, but in faithful portrayal of the human way. You see his lawyers, their discomfortures, rapid changes of front, resourcefulness and occasionally their evil deeds, 'Toneby saw well that he must reply to the deed of the Monk and he made his client settle.' Often the emotions of the rugged Bereford proved

too much for him and he exclaims, 'Mercy, but you talk wildly, Roger.' "

Here is one in a Year Book that got by the judge, and is quoted by Mr. Manson in his article just referred to, as suggestive of the Court in *Bardell v. Pickwick:*

> "Berriwick J. (to the Sheriff). 'And how is it you have attached these people without warrant? For every suit is commenced by finding pledges, and you have attached—though he did not find pledges.'
>
> "The Sheriff. 'Sir, it was by your own orders.'
>
> (Mem. by Reporter.) 'If it had not been, the Sheriff would have been grievously amerced. Therefore take heed.'
>
> (21 and 22 Ed. I. Br. Chr. 31, iv.)"

Three volumes containing the "reports of cases in the reign of Henry VIII, Edward VI, Q. Mary and Q. Elizabeth, taken and collected by Sir James Dyer, Knight, sometime Chief Justice of the Common Pleas," translated by John Vaillant, are not very old, as English reports go, having been printed in 1794; but in Vol. 1 of this set there is the case of *Lowe and Kyme v. Paramour,* dealing with trial by battle, too strange and fascinating to leave unmentioned. In describing various modes of trials, Sir William Blackstone, In Book III, page 337, of his Commentaries, says: "The next species of trials is of great antiquity, but much disused; though still in force if the parties chuse to abide by it; I mean the trial by wager of battle. This seems to have

owed its origin to the military spirit of our ancestors, joined to a superstitious frame of mind; it being in the nature of an appeal to providence, under an apprehension and hope (however presumptious and unwarrantable) that heaven would give the victory to him who had the right. The decision of suites, by this appeal to the God of Battles, is by some said to have been invented by the Burgundi; one of the northern or German clans that planted themselves in Gaul."

In this case of *Lowe and Kyme v. Paramour,* just referred to, we find this interesting account of the trial by battle. Lowe and Kyme had failed in their effort to oust Paramour from some property. "And upon this the demandants brought a writ of right, and counted upon their own seisin in the time of the King and Queen, P. and M., etc. And Paramour chose the trial by battle, and his champion was one George Thorne; and the demandants *e contra,* and their champion was one Henry Nailer, a master of defense. And the court awarded the battle; and the champions were by mainprise and sworn (quaere the form of the oath) to battle at Tothill, in Westminster, on the Monday next after the morrow of the Trinity, which was the first day after the Utas of the Term, and the same day given to the parties; at which day and place a list was made in an even and level piece of ground, set out square, s. sixty feet on each side due East, West, North and South, and a place or seat for the Judges of the Bench was made without and above the lists, and covered with

the furniture of the same Bench in Westminster Hall, and a bar made there for the Serjeants at Law. And about the tenth hour of the same day, three Justices of the Bench, s. Dyer, Weston, and Harper, Welshe being absent on account of sickness, repaired to the place in their robes of scarlet, with the appurtenances and coifs; and the Serjeants also. And their public proclamation being three times made with an Oyes, the demandants first were solemnly called, and did not come. After which the mainpernors of the champion were called, to produce the champion of the demandants first, who came into the place apparelled in red sandals over armour of leather, bare-legged from the knees downward, and bare-headed, and bare arms to the elbow, being brought in by the hand of a Knight, namely, Sir Jerome Bowes, who carried a red baston of an ell long, tipped with horn, and a Yeoman carrying a target made of double leather; and they were brought in at the north side of the lists, and went about the side of the lists until the middest of the lists, and then came towards the bar before the Justices with three solemn congies, and there was he made to stand at the south side of the place, being the right side of the Court; and after that, the other champion was brought in like manner at the south side of the lists, with like congies etc. by the hands of Sir Henry Cheney, Knight etc. and was set on the north side of the bar; and two Serjeants being of counsel of each party in the midst between them; this done, the demandant was solemnly called again,

and appeared not, but made default; upon which default, Barham, Serjeant for the tenant, prayed the Court to record the nonsuit; which was done. And then Dyer, Chief Justice reciting the writ, count, and issue, joined upon battle, and the oath of the champions to perform it, and the fixing of the day and place, gave final judgment against the demandants, and that the tenant should hold the land to him and his heirs for ever; and the demandants and their pledges to prosecute, in the Queen's mercy etc. And then solemn proclamation was made, that the champions and all others there present (who were by estimation above four thousand persons) should depart, every man in the peace of God and the Queen. And they did so, cum magno, 'Vivat Regina.' ''

It is interesting to find that as early as the year 1685 publishers were beginning to realize the value of tables and indexes for the reports. In Vol. 1 of Keble's Reports in the Court of King's Bench at Westminster, published that year, there is this quaint "Advertisement": "The table of the Matter of these Reports, being so large that they could not possibly be done in convenient time, to publish along with the several parts, they are therefore as soon as they can be perfected and fitted for the Press, intended to be published in a volume alone."

In this first volume of Keble's reports there are the cases of *The King v. Field,* wherein we find that the defendant, "a parson of Lincoln," was "disabled to bear office" and fined five hundred pounds for

preaching against the King. Another parson, John Bunyan, author of Pilgrim's Progress, spent some twelve years in Bedford jail at about that period.

We get a picture of a court at that time from Robert Browning's description of Bedford Special Assize one daft Mid-summer's Day. The poet wrote this from memory of Bunyan's story of old Tod in The Life and Death of Mr. Badman:

"But the Court House, Quality crammed:
through doors ope, windows wide,
High on the Bench you saw sit Lordships side
by side.
There frowned Chief Justice Jukes, fumed
learned Brother Small,
And fretted their fellow Judge: like threshers,
one and all,
Of a reek with laying down the law in a furnace.
Why?
Because their lungs breathed flame—the regular
crowd forbye—
From gentry pouring in—quite a nosegay, to be
sure!
How else could they pass the time, six mortal
hours endure
Till night should extinguish day, when matters
might haply mend?
Meanwhile no bad resource was—watching begin
and end
Some trial for life and death, in a brisk five
minutes' space,
And betting which knave would 'scape, which
hang for his sort of face.

"So, their Lordships toiled and moiled, and a
deal of work was done

(I warrant) to justify the mirth of the crazy
sun,
And this and t'other lout, struck dumb at the
sudden show
Of red robes and white wigs, boggled nor
answered 'Boh!'
When asked why he, Tom Styles, should not
because Jack Nokes
Had stolen the horse—be hanged: for judges
must have their jokes,
And louts must make allowance—let's say,
for some blue fly
Which punctured a dewy scalp where the
frizzles stuck awry—
Else Tom had fleered scot-free, so nearly over
and done
Was the main of the job. Full measure, the
gentles enjoyed their fun,
As a twenty-five were tried, rank puritans
caught at prayer
In a cow-house and laid by the heels,—have at
'em, devil may care!—
And ten were prescribed the whip, and ten a
brand on the cheek,
And five a slit of the nose—just leaving enough
to tweak."

For a very long time England has been famed for her courts whose undeviating impartiality in carrying the laws into execution has contributed much to the restraint and suppression of crime; and a finer picture of her judges is suggested by these words spoken by Lord Justice Bowen at Balliol in 1887: "There are not days in which any English judge will fail to assert his right to rise in the proud con-

sciousness that justice is administered in the realms of her Majesty the Queen, immaculate, unspotted and unsuspected. There is no human being whose smile or frown, there is no government, Tory or Liberal, whose favor or disfavor can start the pulse of an English judge upon the bench, or move by one hair's breadth the even equipoise of the scales of justice."

In looking through the English reports it is very interesting to see from what humble cases come some principles of law. Take for instance the rule in *Davies v. Mann,* 10 Meeson and Welsby, page 546 (1842), which became a part of the doctrine of contributory negligence, and has been referred to in many important cases in England and America. The cause of action in the *Davies v. Mann* case is substantially as follows: "The plaintiff, having fettered the fore-feet of an ass belonging to him, turned it into a public highway, where at the time of the injury it was grazing, on the off side of the road about eight yards wide. The defendant's wagon, with a team of three horses, coming down a slight descent at what a witness termed 'a smartish pace,' ran against the ass and knocked it down, inflicting injuries from which it died soon after. The ass was fettered at the time, and it was proved that the driver of the wagon was some little distance behind the horses."

It is a far cry from the tragic death of the grazing ass to the collision of ships at sea; yet we find in the case of *The Bernina,* L. R. Probate Division Vol.

12, p. 88, Justice Lindley saying: "As Pollock, C. B., pointed out in *Greenland v. Chaplain* (4), the jury cannot take the consequences and divide them in proportion according to the negligence of the one or the other party. But if the plaintiff can shew that although he has himself been negligent, the real and proximate cause of the injury sustained by him was the negligence of the defendant, the plaintiff can maintain an action, as is shewn not only by *Tuff v. Warman* (1) and *Radley v. London and North Western Ry. Co.* (2), but also by the well-known case of *Davies v. Mann* (3) and other cases of that class."

Until one has had some experience with the British reports, it is not always easy to find a case by the citation given. For instance, a case cited in the "House of Lords Cases" is found in Clark and Finnelly's reports. A case cited in the "Term Reports" is found in the reports of Durnford and East. The reports of Coke had so great a reputation that for a long time they were cited simply as "The Reports." For a case cited in "Queens Bench Reports" we look in the reports by Adolphus and Ellis, New Series. There are also the Law Reports Court of Queen's Bench Cases in ten volumes (1866-1875) and the Law Reports Queen's Bench Division in twenty-five volumes (1875-1890). From the year 1891 to 1900 the Incorporated Council of Law Reporting issued two volumes annually of the Queen's Bench Division reports.

About the year 1865, acting upon a recommenda-

tion of the Bar, the Council of Law Reporting was formed, consisting of two ex-officio members, viz: the Attorney General and Solicitor General, and of eight barristers, two serjeants and two solicitors. Later the Council was incorporated by royal charter.

The Law Reports are issued in monthly parts, and have been bound yearly in volumes in the following sets: Admiralty and Ecclesiastical, Appeal Cases, Chancery Appeals, Chancery Division, Common Pleas, Common Pleas Division, Crown Cases, Equity, Ex-Chequer, House of Lords English and Irish Appeal Cases, House of Lords Scotch and Divorce Appeals, Indian Appeals, Indian Appeals Supplement, King's Bench Division, Privy Council Appeals, Probate and Divorce, Probate Division, Queen's Bench Cases, and Queen's Bench Division.

The Law Reports Appeal Cases of the House of Lords, Judicial Committee of the Privy Council, and Peerage Cases begin with the year 1875. The first fifteen volumes of this set are consecutively numbered. Beginning with the year 1891 they are cited by the year, a reference to volume number being necessary only when more than one is published in the year. These reports take on a different aspect when we catch this glimpse of the court through the pages of Mr. Thomas Leaming's book, "A Philadelphia Lawyer in the London Courts": "In the House of Lords appeals are equally informal and colloquial, an impression that is heightened by the absence of wigs and gowns, so far as the bench is concerned, and by the very casual man-

ner in which the half dozen gentlemen composing the court are seated. The house itself is a large, oblong chamber with steep tiers of seats, upholstered in red leather, which rise high up the side walls and upon which the peers sit when legislating, but which are, of course, empty when the court only sit. At the far end is an unoccupied throne, while, at the near end, raised above the floor, is a kind of box from which counsel address the court. It is much like the rear platform of one of our street cars. Counsel, of course, are in wig and gown, and if K. C.'s, in full bottomed wigs, but one may occasionally see a litigant actually arguing his own case *in propria persona.* On either side of the counsel's box is a very narrow standing place for reporters and the public.

"The court, consisting of the Lord Chancellor in gown and full bottomed wig, and perhaps of five judges, in ordinary clothing, sit at the floor level, and therefore considerably lower than counsel in the elevated box. They are not placed in a row nor behind any bench or table. On the contrary, though the presiding Lord Chancellor is vis-a-vis to the counsel box, the others sit where they please. Sometimes this is on the front row of benches and sometimes on one of the higher tiers, with a foot propped up, perhaps, on the bench in front, and their thumbs hitched to the armholes of their waistcoats, and, necessarily, with their sides to the speaker. The Members of the court often have portable tables in front of them, piled high with

books and papers. During the course of an argument they constantly debate with each other across the House, or walk over to one of their colleagues with some document or book and talk of the case audibly and perfectly freely. One may hear one of them, in a salt and pepper suit, call across the floor to another Lord of Appeal who has interrupted a barrister's argument, 'I say, can't you give the man a chance to say what he's got to say?' These little circumstances show that judges and counsel in the appellate court of England behave as natural men without the slightest restraint, formality or self-consciousness.''

Following the volumes of the Law Reports Appeal Cases is a set called Law Reports Chancery Appeal Cases, in ten volumes, 1865-75. Next is Law Reports Chancery Division which begins with the year 1875, and has forty-five volumes—numbered serially, to the year 1890; since that date the volumes are cited by year, two volumes being issued annually. The opinions on equity litigation in England are found in these reports. The Chancery Division is one of the divisions of the High Court of Justice, and is presided over by the Lord Chancellor. Here the judges determine the law and the facts, for juries are rarely employed. The courts of equity in England today are very different from those had in mind by John Selden, some three hundred years ago, when he said, ''Equity is a roguish thing. For the law we have a measure, know what to trust to; Equity is according to the conscience of him that is

Chancellor, and as that is larger or narrower, so is Equity."

We come next to the Law Reports King's Bench Division, which begin with the year 1901; and as there are numbered volumes of these reports issued yearly, the set now comprises about fifty-two volumes, but they bear no serial numbers. It often happens that a lawyer, making a memorandum of these volumes, writes down the numbers 1 or 2, but failing to note the year of publication, has to search long for the cited case. The year should always be given. These Law Reports, King's Bench Division, contain reports of cases in the King's Bench Division and on appeal therefrom in the Court of Appeal, and the decisions of the Railway and Canal Commission. The Court of King's Bench is presided over by the Lord Chief Justice of England, and considers cases of almost every description with the assistance of a jury, which may be either a "common" jury or a "special" jury. The law permits certain trials to be conducted by the judges without a jury, if agreeable to the litigants. Except in appeal courts the evidence is heard by a single judge in separate court rooms. The numbers of these judges is fixed by Parliament, and is determined by the amount of business likely to come before the court.

Mr. Leaming says, "The Court of Appeal—the last resort except for occasional cases which reach the House of Lords and Colonial appeals which go to the Privy Council—is, perhaps, the most per-

fectly working tribunal for the adjustment of conflicting rights which the wit of man in any age has devised. It is divided into two parts of three judges each, sitting simultaneously. The Lord Chancellor, the Chief Justice, or the Master of the Rolls presides over the respective parts and two associate Lord Justices of Appeal compose the court." Before this court "there is," says Mr. Leaming, "no 'orating' and no declamation. The positions of the opponents are stated rapidly and smoothly. Each, as enunciated, is taken up by one or more members of the court and distinct intimation given whether the court agrees with the speaker. In case it does, he may pass on. On the other hand, deferential dissent may warn him to strengthen his position, or a frank expression of doubt may be accompanied by a friendly invitation to the other side to contribute suggestions. At the conclusion, judgment is rendered orally, in nine cases out of ten, by the presiding Lord Justice, as the last speaker resumes his seat. Then follow the opinions of the associate Lord Justices of Appeal, concurring or dissenting, all expressed with the utmost frankness and spontaneity."

In looking through the opinions of the Judicial Committee of the Privy Council we find that some of them conclude with these words: "Their Lordships will humbly advise His Majesty that the appeal should be dismissed with costs;" or like this: "Their Lordships will humbly recommend to His Majesty that appeal should be allowed, and that the

judgment of the court below should be set aside." The reason for this is, that this judicial body is a committee and not a court, and therefore renders judgment in the form of a recommendation to the King in Council. The Spectator, comparing the jurisdiction of the Supreme Court of the United States with that of the Judicial Committee of the Privy Council, said: "No court in the world, not even the Supreme Court of the United States of America, has a jurisdiction so vast and so many sided. The great tribunal of the New World may claim to be more English, since in it the principles of the Common Law are always paramount; but as a Court of Law, measured by the extent of its review, the Judicial Committee of the Privy Council has no rival in the world." Appeals come to this Committee from all parts of the world where the nearly four hundred million people live under the British flag.

Among the British reports there are a number of volumes of collected cases on special subjects, for instance the "Reports of Cases relating to Maritime Law, containing all the decisions of the Courts of Law and Equity in the United Kingdom, and selections from the more important decisions in the Colonies and the United States," new series, edited by James P. Aspinall and others. These reports begin with cases of the year 1870 and are brought down to date in some seventeen volumes. When we think of the maritime reports of Great Britain, we are apt to picture scenes of noble wrecks on the

raging North seas or on "India's coral strand," yet in the first volume of this English publication we find a case decided in the Supreme Court of Missouri, and having to do with a steam-boat that struck a snag while descending the Missouri River, comparatively so small a body of water, that, without any desire to disparage the worth of the damaged vessel, we cannot but think of the steam-boat, mentioned by Abraham Lincoln, that had to tie up to the bank when it would blow its whistle.

Another set of collected cases is Reports in Patent Cases, beginning with the year 1884; the first volume edited by John Cutler, Barrister-at-Law, under the authority of the Board of Trade. These volumes contain interesting cases, and the opinions give many expositions of the law relating to patents, which is very old in England. Just how old, it would be hard to say. It is known that during the Tudor dynasty inventors were granted exclusive privileges with regard to the use and sale of their inventions. So great became the abuse of these privileges that in the 21st year of the reign of James I (1624), there was enacted the famous Statute of Monopolies which restricted the granting of such rights to the "true and first inventor" limiting it to a term of fourteen years. This old statute is still in force, and, with amendments, is embodied in the Patent Act of 1907, so often referred to in the Reports of Patent Cases. In the brief of Mr. Charles E. Hughes, filed in the case of *Beech-Nut Packing Company v. P. Lorillard Company,* recently before the United States Su-

preme Court, are several references to cases in these reports.

Cox's Reports of Cases in Criminal Law argued and determined in the Courts of England begin with the year 1843. Crime is a great leveler; and in these reports we find cases from the House of Lords down through the King's Bench Division of the High Court of Justice, the assize courts, the quarter sessions and recorders, the Central Criminal Court to the petty sessions and police magistrate courts. The Central Criminal Court or Old Bailey, as it is familiarily known, is said to be the world's greatest criminal tribunal. The present court building is not the Old Bailey graphically described by Charles Dickens in his Tale of Two Cities as the scene of the trial of the hero, Charles Darnay, for treason. In this Central Criminal Court building is the room of the Common Serjeant, Sir Henry Fielding Dickens, where we find, beneath a black gown and white wig, the youngest son of the great novelist, presiding over a picturesque court.

In an article entitled, "The Old Bailey Revisited," Georgetown Law Journal, Vol. 10, page 36, the late Henry Sherman Boutell gives this interesting description of a scene in Sir Henry's court: "The case on hearing was the trial of several defendants for the theft of valuable furs from a railway company. A favorite resort of the defendants was a tavern in a small country town. Counsel for the defense had called as a witness a young woman who was a barmaid at this tavern. She was pretty and attractive

in a bar-maidish sort of way, and appeared thoroughly honest and straightforward. A facetious barrister cross-examined her briefly with a view to showing that she might be prejudiced on account of her friendship for the defendants. She had never been in a court room before and was plainly embarrassed. She readily admitted a long acquaintance and even intimacy with the accused. The frank avowal without any attempt at concealment rather piqued the learned counsel. In his best Buzfuzian manner he inquired, with a knowing glance at the jury, 'These men have a nickname that they call you by, have they not?' Witness, now somewhat confused, admits that they have. 'And what do they call you?' insinuates Buzfuz. Witness very much embarrassed. 'Come, now,' says counsel, in that confident manner which signifies that the case is ended, 'don't they call you Dickie?' Witness, greatly disconcerted and blushing very deeply, for a bar-maid, faintly admits that they do. 'Just so,' says Buzfuz with a satisfied chuckle to the jury, 'of course they do,' while a titter spread over the court room. The common serjeant looked up from his notes that he was writing with a long quill pen, and with a twinkle in his eye said to the witness in a pleasant reassuring voice, 'So they call you Dickie, do they? That's what they used to call me.' Everyone in the court room had a good laugh, the witness left the stand with her self-respect visibly restored, and the case was rapidly concluded.''

Another set of reports in criminal matters is one

entitled "Criminal Appeal Cases," and edited by Herman Cohen, of the Inner Temple. These reports begin with the year 1908, and are issued in pamphlets which are bound in yearly volumes. As their name implies, they contain reports of cases from the Court of Criminal Appeal.

Under the subject of selected cases, hitherto treated, we mentioned a set entitled British Ruling Cases. There is another set entitled English Ruling Cases shelved with the British reports. These cases were arranged, annotated and edited by Robert Campbell, of Lincoln's Inn, assisted by other members of the Bar. There are American notes by Irving Browne, formerly editor of the American Reports and the Albany Law Journal. The purpose of this collection is to furnish "the leading authorities of English case law on points of general interest." The American notes show the agreement or disagreement of the American case law with the English, and citations of ruling cases in the American reports are given. The cases, collected over a great period of time, are arranged in the alphabetical order of subjects, and, with an index volume, fill twenty-seven books. Supplemental volumes containing extra annotations show where these cases have been cited as precedents in the English, Canadian and American courts.

The largest set of reports in the British alcove is the "English Reports—Full Reprint," in one hundred and seventy large volumes, with cases covering a period of more than six centuries, beginning with

those of Jenkins' reports (1220-1623). The reports in this "Full Reprint" are divided as follows: House of Lords, 11 volumes, Privy Council, 9; Chancery, 27; Rolls Court, 8; Vice Chancellors, 16; King's Bench, 51; Common Pleas, 22; Exchequer, 16; Ecclesiastical, Admiralty and Probate Division, 7; Crown Cases, 2; Nisi Prius, 1. For use in connection with this set of reports, there is a table showing where each of the volumes of the old reports is to be found in the "English Reports—Full Reprint."

Shelved with the volumes of the English reports, in the alphabetical order of the names of the reporters, are many reports of the courts of Ireland and Scotland. Among the earliest of the Irish reports is Sir John Davies' "Reports of Cases and Matters in Law resolved and adjudged in the King's Court in Ireland," covering the period from the year 1604 to 1612. In addition to the volumes shelved under the names of the reporters, there are the following Irish reports: Irish Circuit Reports, covering the years 1641, 1642 and 1643; Judgments of the Superior Courts in Ireland in cases under the Criminal law and procedure (Ireland) act, 1887, and others; Irish Chancery Reports, being a series of cases * * * in the High Court of Chancery and the Rolls Court, in Ireland, during the years 1850 to 1866; Irish Equity Reports (Third series of "The Law Recorder"), particularly of points of practice * * * in the High Court of Chancery, the Rolls Court, and the Equity Exchequer, in Ireland * * * 1838-1850; the Irish Land Reports; the Irish Law

Journal Reports; the Irish Law Reports (Third series of "The Law Recorder") particularly points of practice* * * in the Courts of Queen's Bench, Common Pleas, and Exchequer, in Ireland, from 1838 to 1850; Irish Law Reports (Common Law and Equity Series), published under the control of the Council of Law Reporting for Ireland, containing reports of cases argued and determined in the superior courts in Ireland * * * 1867-1878; Irish Law Reports (New Series) of cases * * * in the Courts of Queen's Bench, Common Pleas, Exchequer, Exchequer Chamber, and Court of Criminal Appeal, during the years 1849 to 1866; Irish Practice Decisions, 1906-1909, of the Supreme Court of Appeal, the High Court of Justice, the county courts, and the recorders' courts; Irish Law Reports (Law and Equity) published under the control of the Council of Law Reporting in Ireland; containing reports of cases * * * in the Court of Appeal, the High Court of Justice and the Court of Bankruptcy, in Ireland * * * 1878-1893; Irish Local Government Quarterly, orders and legal decisions, beginning with the year 1902; the Irish Reports, published under the control of the Council of Law Reporting in Ireland, Registry appeals in the Court of exchequer chamber, and appeals in the Court for land cases reserved * * * 1868-1876; Irish Reserved Cases * * * Rules and orders for the common law judges, and reserved cases * * * 1860-1864; Irish Law Weekly Reports which was changed to the Irish Law Journal Reports; Irish Reports (Law and Equity), published

under the control of the incorporated council of law reporting for Ireland, containing reports of cases * * * in the Court of Appeal, the High Court of Justice, the Court of Bankruptcy in Ireland, and the Irish Land Commission, begin with the year 1894 and are brought down to date in about seventy volumes. The title page of the volume for 1928 is as follows: "The Irish Reports, containing reports of cases argued and determined in the High Court of Justice and by the Irish Land Commission, and on appeal therefrom in the Supreme Court and in the Court of Criminal Appeal in the Irish Free State."

Shelved with the Irish reports are the following digests: Finlay's digest and index to cases in law and equity, from the earliest period to about 1830; Archer's analytical digest of cases in the several courts of common law in Ireland, from the earliest period to about the year 1842; Brunker's digest of cases in the superior and other courts of common law in Ireland, and in the Court of Admiralty, from Sir John Davies' reports to about the year 1865; Gamble and Barlow's index to reported cases in the several courts of equity in Ireland, from 1838 to 1867; Irish Law Reports Digest of cases argued and determined in the superior courts of Ireland, reported in the Irish reports * * * 1867 to * * * 1877; Stubbs' digest of cases in the Superior and other courts in Ireland, from 1894 to 1903; Maxwell's digest of cases in the Irish Reports, Irish Law Times Reports and the New Irish Jurist, 1894-1918.

With regard to the reports of cases in the courts

of Scotland, there are, besides the volumes cited by the names of the reporters and shelved alphabetically with the English reports, the Session Cases adjudged in the Court of King's Bench, chiefly touching settlements, 1710-1747, in two volumes. Then there are five series of Session Cases reports, which begin with the year 1821 and come down nearly to date in more than a hundred volumes.

It would seem that our selected cases system is due in some measure to the practical and economical Scotch reporters; for in the preface to Home's "Remarkable Decisions," published in 1766, we find the following: " * * * to collect all cases indiscriminately that come before a court, would have no better effect than to bury a small quantity of grain in endless heaps of chaff * * * To pester the world with circumstantiate cases that admit not any precise or single *ratio decidendi,* is a heavy tax. It is indeed, strictly speaking, a voluntary tax, because no person is bound to purchase: but it cuts deep, however, upon a man's time, as well as his money; because curiosity and prospect of benefit will induce every one, not only to purchase, but to waste time in perusal."

With the Scotch reports are the following digests: Halkerston's compendium, or general abridgment, of the Faculty collection of decisions of the Lords of council and session, from 1752 to 1817; Brown's general synopsis of the decisions of the Court of Session from its institution until 1827; Kinnear's digest of House of Lords cases on appeal from Scot-

land, 1709 to 1864, with glossary of Scottish law terms; Bell's dictionary of the decisions of the Court of Session, from 1808 to 1833; Bell's illustrations from adjudged cases of the principles of the law of Scotland (1838); Campbell's Digest of appeal cases decided in the court of sessions from the year 1868 to 1882; Grierson's index of cases commented upon in judgments in the court of session and in Scottish appeals to the House of Lords, 1862 to 1893; Welsh's index of cases commented upon in judgment in the court of session and in Scottish appeals to the House of Lords from 1893 to 1904; the Faculty Digest, being an analytical digest of cases decided in the Supreme Court of Scotland and on appeal to the House of Lords; the Scot's Digest of Scot's appeals in the House of Lords from 1707, and of cases decided in the Supreme Court of Scotland, 1800 to 1873. Supplemental volumes bring this Scot's Digest nearly to date.

The nearest approach to our Shepard's Citations for the British reports is a three-volume "Digest of Cases overruled, approved, or otherwise dealt with in the English or other courts, with a selection of judgments referring to such sections," by William Andrew George and John Ritchie, published in 1907. There is also an "Index of Cases Judicially Noticed," by A. N. Kant, containing cases cited in judgments reported in the Law Reports, and a statement of the manner in which the case is dealt with in its place of citation. Vol. 23 of Mew's Digest (2d edition), to be mentioned later, is a citator.

The art of legal digesting in England has improved greatly since the following criticism of a digest of the Law Reports appeared in the Solicitors' Journal, some forty years ago. Said the critic, "There is not a single case given under most of the general headings, but only a series of references to other places. Thus, to take one of the best known headings, "Landlord and Tenant," there are about a hundred references to other parts of the digest, including eleven relating to distress—as, for instance, "Distress by opening a window which is shut but not fastened.—See Entry by opening window." As there happens to be no such heading in the digest as "Entry by opening window," this is embarrassing; but, even when such mistakes do not occur, consider the trouble and annoyance which this mode of arrangement occasions to the practitioner who wants to run his eye over all recent cases relating to distress. Consider, also, the difficulty occasioned to persons who cannot remember or guess the minutiæ of a case sufficiently to look for it at once under the word which relates to a small detail. And again, consider the labor thus occasioned to anyone who wants to note up his text-books on particular subjects."

The English and Empire Digest covers all English cases from early times to the present day, with additional cases from the courts of Scotland, Ireland, the Empire of India, and the colonies. There are notes giving subsequent cases in which judicial opinions have been given concerning the English

cases digested. The editing of this work was commenced under the direction of the late Earl of Halsbury, hitherto mentioned in connection with his "Laws of England." This English and Empire Digest is not yet completed, having reached the subject "Tort" in the 42d volume.

Following the English and Empire Digest are two editions of Mew's Digest of English Case Law. The first edition, published in 1911, is in sixteen volumes. Supplemental volumes bring it down to the year 1924, when the 2d edition was published. Vols. 16, of the first edition, and 24, of the 2d edition, are much in use, as they contain tables of cases from the early times to the end of the year 1910. These tables of cases refer the reader to the volumes and page of Mew's Digest where the case is digested with citations to the volume or volumes of the reports in which the case is to be found. This enables the reader to find a case in more than one publication. To illustrate, suppose the reader is looking for the case of *Davies v. Mann,* hitherto mentioned. In the table of cases opposite the title of the case is a reference to Vol. 10 of the Digest, page 25, where, following the digest of the case, there are citations to 10 Meeson and Welsby, p. 546; 12 Law Journal, Exchequer, p. 10; 6 Jurist, p. 594.

The second edition of Mew's Digest is in twenty-four volumes and annual supplements. Vol. 23 contains a table of cases, arranged in alphabetical order by names of plaintiffs, and following each case there are references to subsequent cases wherein the orig-

inal case was approved, followed, sustained, overruled, etc. Many of the cases in this volume have to do with happenings far removed from us in time and space, nevertheless, they are vital in our present day affairs as shown by the tables of cases cited in the current volumes of our State and Federal court reports.

From the British reports and our own one learns not only of law but of humanity. With magic power these books people and set the stage. Here are romances, tragedies, and comedies. Here a great battle against darkness, sin, ignorance and superstition. There are far too many heavy villians and clowns in the cast; but in spite of these one sees many heroic souls in this great drama that only ends with that "one far off, divine event to which the whole creation moves."

(The End)

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